IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1142 of 2021

Nibedita Patel .... ***Petitioner***
Mr. Manoj Kumar Mohanty, Advocate

-versus-

State of Odisha (Vigilance) .... ***Opposite Party***
Mr. S. K. Das, S.C. for Vigilance Department

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
26.04.2022

Order No.

04. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).

2. Heard learned counsel for the Petitioner and learned Standing Counsel for the Vigilance Department.

3. The present application has been filed under Section 482 Cr.P.C. for a direction to the Opposite Party to release the bank accounts of the Petitioner in the State Bank of India, Jharsuguda bearing S.B. Account No.30511294225 and S.B. Account No.43480111500060 of ICICI Bank at Brajarajnagar seized in connection with Sambalpur Vigilance P.S. Case No.23 of 2020, corresponding to Vigilance G.R. Case No.17 of 2020 in the file of learned Special Judge (Vigilance), Sambalpur.

4. It is submitted by learned counsel for the Petitioner that a case was registered against the father of the Petitioner. Accordingly, the Vigilance Authority in connection with the allegation has frozen

the bank account of the present Petitioner. It is further contended by the learned counsel for the Petitioner that present Petitioner is working as a lecturer in Jharsuguda Women's Aided College and he has independent source of income. Further, so far the aforesaid accounts of the Petitioner are concerned, she has no nexus with the father. It is further submitted that Section 18-A of the Prevention of Corruption (Amendment) Act, 2018 has not been followed by the Vigilance Authority while freezing the accounts of the Petitioner.

5. Learned Standing Counsel for the Vigilance Department submits that the State Bank Account has been defreezed partially subject to the condition that Petitioner shall maintain minimum balance of Rs.4,50,791.69 p. in the account, as per Annexure-4 of the writ petition. He fairly admits that the procedure u/s.18-A of the P.C.Act has not been followed by the Department. However, he submits that since investigation is continuing, it would be premature to say that Petitioner has no connection with her father.

6. Having heard learned counsel for the parties and after considering the materials placed on record, this Court is of the considered view that unless there is any specific allegation against the present Petitioner giving specific details of the bank accounts, the bank accounts of the Petitioner cannot be frozen, as per the decision of the Hon'ble Supreme Court. Moreover, the mandatory procedure of law provided under Section 18-A of the P.C. Act having not been followed in the present case, learned counsel for the Petitioner submits that freezing of Petitioner's bank account is bad in law and in the said context, he relies upon the order of the Supreme Court in the case of ***Ratan Babulal Rath vs. The State of Karnataka***

(Criminal Appeal No.949 of 2021, disposed of on 06.09.2021), wherein for non-compliance of Section 18-A of the P.C. Act and Section 102 of Cr.P.C., the order of the Authority has been set aside and the Authority has been directed to defreeze the account of the Appellant therein.

7. In such view of the matter, this Court directs the Authority to defreeze the bank accounts, i.e. S.B. Account No.30511294225 of State Bank of India at Jharsuguda and S.B. Account No.43480111500060 of ICICI Bank at Brajarajnagar, of the Petitioner forthwith. Further it is open for the Vigilance Authority to take such recourse in law as may be permissible, as per the judgment of the Hon'ble Supreme Court cited hereinabove.

8. With the aforesaid direction, the writ petition stands disposed of.

9. Issue urgent certified copy as per rules.

10. A free copy of this order be supplied to the Standing Counsel for the Vigilance Department for communication purpose.

(A.K. Mohapatra)
Judge

U.K.Sahoo