

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41358 of 2023

Arising Out of PS. Case No.-1 Year-2016 Thana- VIGILANCE District- Patna

Ekta Priyadarshini @ Ekta Priyadarshnee @ Ekta Priyadarshnie Wife Of Ravi
Magroriya Resident Of Flat No. 5d, Atalanta Cosmos Springs, Near Gloria
Hall, Ghor Bandar Road, Thane West, P.S.- Kasarwadawali, District - Thane,
Maharashtra.

... .. Petitioner/s

Versus

The State of Bihar through the Special Vigilance Unit, Patna Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kumar Kaushik
For the Opposite Party/s : Mr. Arvind Kumar
Mr. Rana Vikram Singh- Spl. P. P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 19-09-2023 1. Heard learned counsel for the petitioner and

learned Special P.P. for the Special Vigilance Unit.

2. The learned counsel for the petitioner submits

that the present application has been filed seeking quashing

of the order dated 11.05.2023 passed by the learned Special

Judge, Vigilance, Patna in Special Case No.40 of 2016

arising out of Special Vigilance Unit P. S. Case No.01 of

2016 registered under Sections 13(2) read with Sections

13(1)(e) of the Prevention of Corruption Act, 1988, whereby

the learned Special Judge has been pleased to reject the

petition filed by the petitioner under Section 438(2)(iii) of



the Cr.P.C. for permission to leave the country to enable her to stay with her husband, who has been employed in the United Arab Emirates and her only child suffers from Autism Spectrum Disorder.

3. The learned counsel for the petitioner next submits that an F.I.R. came to be instituted against the father of the petitioner, who retired as an Assistant Engineer, BUIDCO alleging therein that he has amassed property disproportionate to the known sources of his own income. The learned counsel submits that petitioner was not made an accused in the F.I.R., but during the course of investigation, it transpired that some amount was transferred in her account by her parents. Accordingly, thereafter, the petitioner was roped in and on investigation, certain amounts were recovered from her account and also from her locker. The learned counsel submits that thereafter petitioner was also made an accused in the case for abating her father in the crime.

4. The learned counsel for the petitioner next submits that police after investigation submitted charge-



sheet based on which, cognizance was taken and thereafter, the petitioner moved before this Court seeking anticipatory bail by filing Cr. Misc. No.60545 of 2021, which was allowed by the learned Coordinate Bench by an order dated 18.10.2022 with a condition that in the event, if the learned trial Court comes to a conclusion that petitioner after her release is trying to delay the trial in any manner, the learned trial Court shall be at liberty to cancel the bail bonds of the petitioner after recording reasons. It is next submitted that the stage of the case from the date of cognizance, till date, has not changed. It is further submitted that husband of the petitioner is presently working in United Arab Emirates in Arabian Gulf Melco Elevator L.L.C., which would be evident from the employer's certificate dated 25.01.2023 (Annexure-P-6 series to the quashing application). It is next submitted that petitioner on account of the pendency of the present case, is not able to join her husband, who is working in United Arab Emirates. It is next submitted that petitioner has only one child aged about 06 years and he suffers from Autism as was diagnosed by a Pediatrician in Mumbai as



would be evident from Annexure-P-3 series to the quashing application. Thereafter, the petitioner got her son treated in the department of Pediatrics/ Psychiatrist AIIMS, Patna on 20.07.2021 and it was diagnosed that the child suffers from Autism Spectrum Disorder. It is further submitted that a disability certificate dated 01.02.2023 has also been issued to the child as he has been found to be a case of Autism Spectrum Disorder and 50% of temporary disability has been found as per the guidelines for evaluation and assessment of Autism as would be evident from the disability certificate dated 01.02.2023 issued by the Additional Civil Surgeon (Clinical, Civil Hospital), Thane, Maharashtra (Annexure-5 to the quashing application).

5. The learned counsel for the petitioner submits that the child requires attention of both the parents and if the child is deprived of the love of the parents, it may affect him adversely. It is further submitted that on account of pendency of the present case, the petitioner has not been able to go to United Arab Emirates with the child to meet her husband as a result of which, the child is also deprived of



the love of his father. It is next submitted that since petitioner is facing a criminal prosecution and her bail was granted with certain conditions, as such, she could not leave the country without seeking permission of the Court, as such, she had filed an application before the learned trial Court seeking permission for going to United Arab Emirates for meeting her husband along with the child and also for better care and treatment of the child which is available in United Arab Emirates. It is next submitted that petitioner had given a specific undertaking before the learned trial Court that she will always present herself when required, still her application seeking permission came to be rejected in a mechanical manner by order dated 11.05.2023. It is next submitted that it appears that the learned trial Court got swayed by the observation of this Hon'ble Court in Cr. Misc. No.60545 of 2021 whereby anticipatory bail was granted to the petitioner with certain conditions. Further, the learned trial Court also recorded that the case is pending for charge and hearing on petition filed under Section 207 Cr.P.C., as such, if the petitioner is permitted to leave the country, the



same may hamper the Court proceedings.

6. The learned counsel for the petitioner submits that as far as an application under Section 207 Cr.P.C. has been filed by the petitioner for that petitioner is not required to remain present for getting an adjudication on the said application. It is further submitted that petitioner undertakes before this Court also that she will not abscond rather will appear in the case as and when required by the learned trial Court, so that the trial in no manner is affected or delayed by her conduct.

7. The learned Special P. P. Sri Rana Vikram Singh submits that he has received instruction and the counter-affidavit is in process of being affidavited, but from the instruction which he has received, it is submitted that S.V.U. has no objection in the event, if this application is allowed provided the petitioner does not abscond and delays the trial rather the petitioner should appear before the learned trial Court as and when required, to which the learned counsel for the petitioner submits that petitioner will never abscond and would not indulge in any act, which would cause prejudice to



the trial.

8. Considering the submission made by the parties, the order dated 11.05.2023 passed by the learned Special Judge, Vigilance, Patna in Special Case No.40 of 2016 arising out of Special Vigilance Unit P. S. Case No.01 of 2016 registered under Sections 13(2) read with Sections 13(1)(e) of the Prevention of Corruption Act, whereby the application of the petitioner under Section 438(2)(iii) of the Cr.P.C. was rejected, is hereby quashed with a condition that as and when required by the learned trial Court, the petitioner will have to present herself and in the event, if the learned trial Court comes to a conclusion that petitioner after leaving the country is trying to delay the trial in any manner, the learned trial Court shall be at liberty to cancel the bail bonds of the petitioner after recording reasons and shall take all coercive steps to ensure that the trial is not hampered and the presence of petitioner is ensured.

(Satyavrat Verma, J)

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