IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66797 of 2023

Arising Out of PS. Case No.-4 Year-2018 Thana- E.C.I.R (GOVERNMENT OFFICIAL)
District- Patna

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BHARTI THAKUR WIFE OF SRI ARUN KUMAR THAKUR RESIDENT OF ROAD NO. 0 (ZERO), I/B NARAYAN VILLA, EAST PATEL NAGAR, PS- SHASTRI NAGAR, DIST- PATNA (BIHAR)

... ... Petitioner/s

Versus

1. THE STATE OF BIHAR
2. THE UNION OF INDIA THROUGH THE DIRECTOR, ENFORCEMENT DIRECTORATE, GOVT. OF INDIA, NEW DELHI NEW DELHI
3. THE UNION OF INDIA THROUGH THE ASSISTANT DIRECTOR, ENFORCEMENT DIRECTORATE, GOVT. OF INDIA ASSISTAN BIHAR

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Chitranjan Sinha, Sr. Advocate
		Mr. Pratyush Pratap Singh, Sr. Advocate
		Mr.Ravindra Kumar Shukla
		Mr. Manish Jha
		Mr. Ritu Raj Shukla
For the Enforcement Directorate		Mr. Tuhin Shankar

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CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

CAV ORDER

13 07-10-2024 I have already heard the learned Senior Counsel for the petitioner and learned counsel for the Enforcement Directorate.

2. This is an application for anticipatory bail on behalf of the petitioner for the offences alleged under Section 3, read with Sections 70 & 4 of the Money Laundering Act, 2002 (for short ‘the PMLA’), in connection with Special Case No.05 of 2021,arising out of complaint case vide ECIR

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No.PTZ0)/04/2018

3. This case relates to infamous case known 'as Srijan Scam', in which thousands of crores of government money were siphoned off by the officer-bearers of the Srijan Mahila Vikas Sahyog Samiti Ltd. (for short ' the SMVSSL') in conspiracy with the Bank officials and the State Government officials. Huge government money was illegally transferred from the State Government accounts to the accounts of 'the SMVSSL' for personal gains.

4. The allegation against the petitioner is that she was one of the associates of Late Manorama Devi, the then Secretary of 'the SMVSSL' (the kingpin of the scam) and she acquired the property from the proceeds of crime. One plot No. Emerald-1/101 Gardenia Glamour Phase II Project, Ghaziabad was purchased in the name of the petitioner and Rs.25,00,000/- was paid from the bank account of 'the SMVSSL', to 'The Gardenia Glamour. The Gardenia Glamour through its letter dated 20.08.2018, revealed that it received Rs.25,00,000/- in its account through RTGS from 'the SMVSSL'. During her statement, the petitioner has stated that she had deposited amount in cash in the account of 'the SMVSSL' of Rs.20.75 lacs, but no documentary evidence could be brought by the

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petitioner in this regard. She attempted to launder the proceeds of crime generated in cash and assisted to root the tainted money through the channel of 'the SMVSSL'.

5. The learned senior counsel for the petitioner has submitted that the petitioner is a lady and has falsely been implicated. She should be given the benefit of the first proviso to Section 45(1) (ii) of 'the PMLA'. It has been submitted further that the petitioner is not named accused in the FIR (complaint), nor she is associated with 'the SMVSSL'. He also submits that the petitioner deposited Rs. 1,00,000/- and 9,00,000/- in cash to the Gardenia India Ltd. on 13.09.2011 at its camp office of the developer, but the receipts were not accepted by the officials of the Enforcement Directorate. It has also been submitted that the Hon'ble Supreme Court has held in the case of ***Tarsem Lal vs. Directorate of Enforcement, Jalandhar Zonal Office (Special Leave Petition (Crl) No. 121 of 2024)*** that if an accused is not arrested during investigation and if he appears before special court pursuant to a summons, it is not necessary for him to apply for bail. Special court can always take recourse to Section 88 of the CrPC.

6. On the other hand, the learned counsel for the Enforcement Directorate has submitted that Section 88 of the

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CrPC does not provide a right to the accused to be released on bail if he appears before the Court.

7.From bare perusal of Section 88 of the CrPC, it appears that the Court may require such person to execute a bond with or without sureties. It is also clear from the said Section that after taking into consideration the facts and circumstances, the court may require the accused to execute a bond.

8. In the present case, the special court issued summons on 04.10.2021, but the petitioner did not obey the summons and she is still out of reach of the court. The case has lingered for a considerable long duration due to non-appearance of the petitioner in the court below. Having no option, the learned Special Judge (PMLA), Patna, rejected her anticipatory bail on 17.02.2023.

9. It has been submitted further that the consideration money of the flat purchased by the petitioner was paid by 'the SMVSSL' and as per the provision of Section 24 of 'the PMLA', the petitioner could not rebut the presumption which shifts the burden on the shoulder of the accused to prove that the property is not the proceed of a crime.

10. The petitioner could not clarify in what

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circumstances ‘the SMVSSL’ deposited consideration money for the flat purchased by the petitioner. Though in her statement, the petitioner states that she had deposited Rs.20.7 lac cash in ‘the SMVSSL’, but she did not produce any evidence in this respect.

11. Considering the facts and circumstances, in my view, the petitioner does not deserve the privilege of anticipatory bail, which is hereby rejected.

(Nawneet Kumar Pandey, J)

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