

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2956 of 2024

Arising Out of PS. Case No.-6 Year-2018 Thana- E.C.I.R (GOVERNMENT OFFICIAL)
District- Patna

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Jayshree Thakur, wife of Dr. Rajesh Kumar Chaudhary, resident of 602,
Ganga-A/1, Jalalpur City, Ramjaipal Nagar Path, Patna

... .. Petitioner

Versus

The Union of India through the Directorate of Enforcement, Government of
India (Prevention of Money Laundering Act, Government of India), 1st Floor,
Chandpura Place, Bank Road, West Gandhi Maidan, Patna 800001, Bihar

... .. Opposite Party

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Appearance :

For the Petitioner	:	Mr. Subodh Kumar Jha, Advocate Mr. Pranav Kumar Jha, Advocate
For the Union of India	:	Mr. K.N. Singh, Addl. S.G. Mr. Amarjeet, J.C. to A.S.G. Mr. Prabhat Kumar Singh, J.C. to ASG
For the E.D.	:	Mr. Tuhin Shankar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

ORAL JUDGMENT

Date : 01-03-2024

Heard Sri Subodh Kumar Jha, learned counsel for
the petitioner, Sri K.N. Singh, learned Additional Solicitor
General appearing for the Union of India and Sri Tuhin Shankar,
learned counsel for the Enforcement Directorate.

2. The petitioner seeks bail in connection with
Special Trial (PMLA) Case No.05 of 2023, arising out of ECIR
No. PTZO/06/2018 registered for the offence punishable under
Section 4 of the Prevention of Money Laundering Act, 2002.

3. Allegation against the petitioner is that she
while functioning in different capacities under different posts
has amassed disproportionate assets amounting to



Rs.13,98,38,213/- during the period from 12.01.1987 to 30.06.2013 in her name, in the name of her husband Rajesh Kumar Choudhary, her son Rishikesh Choudhary and daughter Rajshree Choudhary. During investigation, the petitioner was found to be involved in process/activities connected with proceeds of crime including its acquisition, concealment, transfer, possession, use as well as claiming it as untained.

4. Learned counsel for the petitioner submits that the petitioner is a lady aged about 65 years. She is suffering from heart ailment and has undergone angioplasty and therefore, she needs constant care. He further submits that the petitioner is accused in six more criminal cases and in all the cases, she is on bail. In this case, the petitioner has been remanded on 30.08.2023 and since then she is in custody.

5. Learned counsel for the petitioner also submits that the amount so received in the bank accounts of the petitioner i.e. Bank of Baroda, Axis Bank and Srijan Mahila Vikash Sahyog Samiti is received from the Government as compensation for the land of the petitioner which have been acquired by the Government but, these amounts have also been computed in the instant case and the present case has been lodged without considering the fact that major amount so seized



by the Economic Offences Unit is derived from the land acquisition of the land of the petitioner.

6. By relying upon Section 45(ii) of the Prevention of Money Laundering Act, 2002, learned counsel for the petitioner submits that the case of the petitioner does not come within the Exception under Section 45(ii) of the aforesaid Act.

7. Learned counsel for the petitioner has relied upon a decision of the Hon'ble Supreme Court rendered in the case of *P. Chidambaram vs. Directorate of Enforcement* reported as **2020 (13) SCC 791**.

8. By making the aforesaid submissions, learned counsel for the petitioner has submitted that this Court may grant bail to the petitioner.

9. Sri Tuhin Shankar, learned counsel for the Enforcement Directorate has vehemently opposed the prayer for bail of the petitioner and has submitted that the petitioner has been depositing huge amount of cash in her bank accounts and has laundered money. She has not been able to explain the deposit of huge amount of money i.e. Rs.6,00,000/- in June, 2008, Rs.1,00,000/- in January, 2009 and Rs.5,00,000/- in June, 2010. He has also submitted that the amount deposited has not



been commensurate to the known source of income of the petitioner and other huge deposits have also been made in the bank accounts of the petitioner including Rs.2.86 crores in June, 2013 and Rs.2.56 crores in July, 2013.

10. I have considered the submissions of the parties and perused the materials on record.

11. A co-ordinate Bench of this Court while considering the grant of bail of this petitioner in connection with ECIR No. PTZO/04/2018, which is also a case under Prevention of Money Laundering Act, has considered the twin test of Section 45(i) of the Prevention of Money Laundering Act and after considering the law laid down by the Hon'ble Supreme Court granted bail to the petitioner vide judgment and order dated 04.09.2023 passed in Criminal Miscellaneous No.34131 of 2022. It will be relevant to quote paragraph no.17, 18, 19 & 21 of the aforesaid decision, which read as under:-

“17. Insofar as the instant case is concerned, this Court finds that the petitioner accused is a woman. She has enclosed documents showing her treatment, after suffering a heart attack. She is stated to be 64 years old. These facts have to be viewed keeping in background, the first proviso to Section 45 of the PMLA, which reads as follows:

“Provided that a person, who is under the age of sixteen years or is



a woman or is sick or infirm, [or is accused either on his own or along with other co-accused of money-laundering a sum of less than one crore rupees] may be released on bail, if the Special Court so directs:”

18. *The Court accordingly has to consider as to what approach is required while considering a prayer for grant of bail to an accused who is covered by proviso to Section 45 of the PMLA. While according such consideration, this court is bound by decision of the Hon’ble Apex Court in the case of **Directorate of Enforcement versus Preeti Chandra**, having neutral citation No. **SLPR 7409/2023**, also reported in **2023 SCC Online SC 930**. The Hon’ble Apex Court by the said decision has denied to interfere with the order passed by the Delhi High Court granting bail to woman accused by applying the triple test, as contemplated under Section 437 Cr.P.C. The Delhi High Court had held the twin condition of Section 45 of PMLA not to be applicable to the applicant (woman accused). Such grant of bail came up for consideration before the Hon’ble Apex Court in the case of **Directorate of Enforcement versus Preeti Chandra** (supra). Relevant extract of the order of the Hon’ble Apex Court reads as follows:-*

“.....2. The proviso to Section 45 of the Prevention of Money Laundering Act, 2002 confers a discretion on the Court to grant bail where the accused is a woman. Similar provisions of Section 437 of



the Code of Criminal Procedure 1973 have been interpreted by this Court to mean that the statutory provision does not mean that person specified in the first proviso to sub-section (1) of Section 437 should necessarily be released on bail. [see Prahlad Singh Bhati v. NCT, Delhi, (2001) 4 SCC 280].

3. Considerations which weigh in the grant of bail are distinct from those which are relevant to the adjudication of an application for cancellation of bail. The respondent has undergone over 620 days of custody. Since in the exercise of its discretion, the High Court has come to the conclusion that the respondent should be released on bail, we are not interfering with the order under Article 136 of the Constitution....”

*19. From the decision of the Hon’ble Apex Court in the case of **Directorate of Enforcement vs. Preeti Chandra** (supra) it is apparent that the proviso to Section 45 of PMLA confers discretion on the court to grant bail where the accused is woman, similar to the proviso to Sub-section 1 of Section 437 Cr. P.C., as per decision of the Hon’ble Apex Court in the case of **Prahlad Singh Bhati vs. NCT, Delhi** reported in (2001) 4 SCC280. The court, therefore, has to consider the petitioner’s prayer for bail in terms of the decision of the Hon’ble Apex Court in the case of **Prahlad Singh Bhati** (supra).*

21. The petitioner is already on bail in the predicate offence. Learned counsel for



the petitioner also places reliance on order dated 24-04-2023 passed by a coordinate Bench of this Court granting bail to another female co-accused, namely, Indu Gupta in Cr. Misc. No. 69939 of 2022. The petitioner's custody by now is more than 22 months."

12. In this case, the ECIR was registered in the year 2018. Initially, the petitioner was taken into custody on 22.09.2019 in a different case. She was not remanded in connection with present case till she got bail in almost all the cases. The petitioner has also cooperated in the investigation. She is an old lady aged about 65 years. Moreover, the petitioner has produced some documents showing that she is suffering from heart ailment and has undergone angioplasty.

13. Considering the aforesaid facts and also the law laid down by the Hon'ble Supreme Court in the case of ***Directorate of Enforcement vs. Preeti Chandra*** (*supra*) and the judgment and order passed by a coordinate Bench of this Court in Criminal Miscellaneous No.34131 of 2022, this bail application is allowed.

14. Let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge/Special Judge (PMLA), Patna, in



connection with Special Trial (PMLA) Case No.05 of 2023,
arising out of ECIR No. PTZO/06/2018, subject to the following
conditions:-

- i. That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy regarding relationship with the petitioner;
- ii. That the petitioner will cooperate in the trial;
- iii. The petitioner shall not leave the country without permission of the Trial Court;
- iv. The petitioner shall not indulge in any criminal activity during the bail period;
- v. The petitioner shall not communicate with or intimidate or influence any of the prosecution witness or tamper with the evidence of the case.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	05.03.2024
Transmission Date	05.03.2024

