

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24733 of 2021**

Arising Out of PS. Case No.-5 Year-2017 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

RAJANTI DEVI @ RAJANTI KUMARI WIFE OF VIJAY YADAV @
SANDEEP YADAV @ RAPESHJI @ BARKA BHAIYA RESIDENT OF
BABURAMDIH, LUTUA, P.S.- BANKEBAZAR, DISTRICT- GAYA

... .. Petitioner/s

Versus

THE UNION OF INDIA THROUGH THE ASSISTANT DIRECTOR
DIRECTORATE OF ENFORCEMENT

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mrigank Mauli, Sr. Advocate
Mr. Prince Kumar Mishra, Advocate
For the Opposite Party/s : Mr. K.N.Singh, A.S.G.
Mr. Manoj Kumar Singh, (E.D.)

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
C.A.V. ORDER**

15 19-07-2023

Heard Sri Mrigank Mauli, learned senior counsel assisted by Sri Prince Kumar Mishra and learned Central Govt. Counsel appearing on behalf of Union of India.

2. The petitioner has preferred this application for grant of anticipatory bail in connection with Special Trial No. (PMLA) 04 of 2018 in pursuance of ECIR No. PTZO/05/2017 dated 31.07.2017 arising out of Original Complaint No. 893 of 2018 for offences alleged under section 4 of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as 'P.M.L.Act').

3. As per the prosecution case, a complaint was filed under the P.M.L.Act by the Assistant Director,



Directorate of Enforcement, Government of India stating therein that vide Letter No. 213/C, dated 30.06.2017, the Superintendent of Police, Economic Offence Unit-3, Bihar, Patna (hereinafter referred to as Superintendent of Police) has forwarded inter alia a list of 88 (eighty eight) FIRs, registered and three charge-sheets filed against Sandeep Yadav @ Vijay Yadav @ Rupeshjee @ Badka Bhaiya (hereinafter referred to as Accused No.1) and a list of 8 (eight) FIRs against Dhanik Lal Mandal @ Bhutali (hereinafter referred to as Accused No.2) at different police stations for contravention of various sections of Indian Penal Code, Arms Act, NDPS Act, UAP Act, CLA Act etc. In the said letter, the Superintendent of Police has also intimated that through the commission of these offences, Accused No. 1 Sandeep Yadav is an active member of banned outfit CPI (Maoist), a Left Wing Extremist Organization against whom there is allegation that an Area Commander of Madhya Zone of Bihar and Jharkhand he and his associates have been alleged to threatening and killing of innocent people/security forces and collection of levy and it is revealed that Accused No. 1 Sandeep Yadav and Accused No. 2 Dhanik Lal Mandal, both have acquired huge properties in



the name of their family members from their criminal activities. The details of which are as follows:-

<u>Sl.</u>	<u>Sale Deed No.</u>	<u>Description of Properties</u>	<u>Value of the property</u>	<u>Properties acquired in the name of</u>
1.	15521 dated 15.12.2012	Khata No. -4, Plot No.-58, Thana No.-565, Mauza Ratanua, Decimal alongwith construction Dist.-Augangabad	Rs. 14,00,000/- Stamp Duty – Rs. 84,100/- Reg.& other charges – Rs. 29,629/- Total – Rs. 15,31,729/- (joint share) Total share of Rajanti Devi – Rs. 10,65,729/-	i. Rajanti Devi (petitioner) w/o Sandeep Yadav ii. Gudiya Devi w/o Dhanik Lal Mandal
2.	14232 dated 10.10.2013	Khata No. - 8, Plot No. 128, Thana No. 566, Mauza Sahpur, Ward No. 10, Area 05 Decimal, Dist- Aurangabad	Rs. 15,00,000/- Stamp Duty – Rs. 1,23,000/- Reg. & other charges – Rs. 32,250/- Total – Rs. 16,55,250/-	Rajanti Devi (petitioner) w/o Sandeep Yadav
3.	2916 dated 11.03.2015	Khata No.-8, Plot No. 128, Thana No. 566, Ward No.-10, Mauza Sahpur, Area – 1.82 Decimal, Dist-Aurangabad	Rs. 5,40,000/- Stamp Duty-Rs. 44,000/- Reg.& other charges Rs. 11,775/- Total – Rs. 5,95,775/-	Rajanti Devi (petitioner) w/o Sandeep Yadav
4.	5661 dated 12.07.2017	Khata No. 222, Khesra 170, Plot No. 170, Thana No. 284, Mauza Dumranwan, Circle Banke Bazaar, Area 18.75 Decimal, Dist- Gaya	Rs. 1,45,000/- Stamp Duty-Rs. 8,700/- Reg. & other charges – Rs. 3,450/- Total – Rs. 1,57,150/-	Dhanik Lal Mandal Brother of Sandeep Yadav
5.	Advance Payments made to Revanta Multistate CGHS Limited, Dwarka, New Delhi	Category of Flat 1175, 2BHK, Smart Residency	Rs. 10,68,400/- against Membership No. SR51196	Gajendra Narayan (son-in-law of Sandeep Yadav)
		Total	Rs. 50,08,304/-	



4. From the aforesaid table, it is apparent that Smt Rajanti Devi, who is petitioner in this case, has acquired immovable properties valued at Rs. 33,16,754/- during financial years 2012-13 to 2014-15. During investigation, it revealed that Rajanti Kumari (petitioner) was appointed as a contractual Primary Teacher at Kothilwa, Gaya under Bihar Government on 14.08.2010 and till February, 2017, she has received total salary of Rs. 6,75,424/-. During investigation, it has also come that petitioner has filed her return of income tax only for two financial years i.e. 2014-15 and 2015-16, declaring total income at Rs. 2,73,754/- and Rs. 2,80,550/- respectively, which also proved to be fabricated or created. The petitioner did not produce any supporting document in respect of source of acquisition of said immovable properties worth Rs. 33,16,754/- acquired during financial years 2012-13 to 2014-15. It clearly indicated the use of unaccounted wealth in acquisition of these properties by Rajanti Devi (petitioner). Therefore, looking at the criminal history of her husband Sandeep Yadav, it is logical to conclude that petitioner has knowingly acquired the above immovable properties in her name out of money generated from criminal activities of her husband



Sandeep Yadav.

5. It is submitted by learned senior counsel appearing on behalf of petitioner that the allegation levelled against the petitioner is false, fabricated and concocted. Petitioner has been falsely implicated in this case merely because she happens to be wife of co-accused Sandeep Yadav, whereas, petitioner has got no concern in any manner with co-accused Sandeep Yadav, since her husband has left behind all his relations and even did not try to make any contact with petitioner and other family members for the last ten years. As a matter of fact, petitioner is a government employee and working as a Teacher in Gaya and she is an earning and independent lady from the saving of her income along with substantial amount received from her father, which was invested by her in order to acquire some of the immovable properties, which has been wrongly considered to have been acquired from the proceeds of crime. It is further submitted that the petitioner also runs a grocery shop in Banke Bazar, Gaya and from the profit of the shop, she invested in the said properties. The family of the petitioner also owned a few cattle, which were subsequently sold and from the proceeds generated from the sale the



petitioner invested the same in mutual funds and as such, no case under Section 4 of P.M.L.Act is made out against this petitioner.

6. Lastly, it is submitted on behalf of petitioner that while laying down the principles with regard to grant of bail, the Hon'ble Supreme Court in the case of **Aman Preet Singh vs. CBI, through Director (2021 SCC Online SC 941 paragraph 9 & 11)** upheld the principles of grant of bail as stated in the case of **Siddharth vs. State of U.P. & Anr. (2021 SCC Online SC 165 paragraph 11 to 14)** and it held that if an accused has not been arrested during investigation, even when it was open to the investigating agency to arrest the accused, and the accused has fully cooperated during investigation, he is entitled to the privilege of bail.

7. Learned counsel appearing on behalf of Union of India vehemently opposes the prayer for anticipatory bail of petitioner and submits that petitioner is the wife of notorious criminal Sandeep Yadav and she is knowingly involved in concealment and transfer of proceeds of crime and is knowingly involved in process or activity connected with proceeds of crime and projection of the same as untainted. Therefore, petitioner has committed the offence



of money laundering, as defined under Section 3 of the P.M.L.Act and punishable under Section 4 of the P.M.L.Act. Hence, she has been made accused in the complaint filed under the Money Laundering Act for commission of offence alongwith her husband Sandeep Yadav and four others. Cognizance on the same has been taken by the Special (PMLA) Court, Patna on 03.10.2018.

8. Learned counsel for Union of India further submits that during investigation, it has come that petitioner is knowingly involved in concealment and transfer of proceeds of crime so as to project the same as untainted. The petitioner acquired immovable properties worth Rs. 33,16,754/- during financial years 2012-13 and 2014-15 against the total income of Rs. 6,75,424/- during the year 2010 (August, 2010) to 2017 (February, 2017) and could not provide any evidence regarding the source of acquisition of these properties. He further submits that investigation reveals that against the cash deposits to the tune of Rs. 28,33,815/- from Financial Year 2010-11 to 2017-18, the petitioner has declared income of only Rs. 5,54,304/- for assessment year 2015-16 & 2016-17 and has not filed any ITR prior to 2014-15. She could not provide any evidence



regarding the source of these cash deposits. On analysis of bank statement of petitioner's two accounts i.e. 914010049104661 (Axis Bank) and 459110110004843 (Bank of India), it reveals that cash is the only source of deposits in the said bank accounts. The accumulated balance from cash deposits was utilized for booking a flat under Kripa Constructions, Ranchi, however; once investigation under P.M.L.Act was initiated, booking of the said flat was cancelled. This shows clear attempt by petitioner to launder proceeds of crime and to frustrate the proceedings under P.M.L.Act, after initiation of investigation under P.M.L.Act. Petitioner also made false submission before the investigating agency regarding her sources of earnings, sources for acquisition of immovable and movable properties without any evidence. The petitioner has maintained altogether four bank accounts in her name. They are –

- (i) 459110110004843 (Bank of India),
- (ii) 74162010003285 (Syndicate Bank),
- (iii) 914010049104661 (Axis Bank),
- (iv) 2387000100101999 (Punjab National Bank).

And, upon scrutiny of aforesaid bank accounts, it reveals that cash deposits to the tune of Rs. 28,33,815/- have been done from financial year 2010-11 to 2017-18, whereas, petitioner



has declared income of only Rs. 5,54,304/- fro assessment year 2017-18 & 2016-17 and has not filed any ITR prior to 2014-15 and she failed to disclose the source of these deposits and did not produce any documentary evidence in this regard. This shows that petitioner (Rajanti Devi) is knowingly involved in concealment and transfer of proceeds of crime acquired by her husband Sandeep Yadav so as to project the same as untainted. Similarly, petitioner has made investment though her bank account in Axis Long Term Equity Fund, vide Folio No. 91014656403 on 27.01.2015 for Rs. 2,00,000/- to distant it from its tainted origin and project it as untainted.

9. Lastly, it is submitted by learned counsel for Union of India that despite several summons and non-bailable warrant, the petitioner did not appear before the Trial Court, which shows that she is deliberately trying to circumvent due process of law. Therefore, the petitioner is not entitled to get any relief from the Hon'ble Court and as such, the present anticipatory bail petition is liable to be rejected instantly.

10. Having heard learned counsel for the parties and taking into consideration the facts and circumstances of



the case and also the fact that petitioner is knowingly involved in acquisition, concealment and transfer of proceeds of crime and projection of the same as untainted, pursuant thereto various transactions relating to purchase of immovable properties etc. were recovered and have been mentioned in detail, as referred to hereinabove. Further, Section 45(1)(ii) of the P.M.L.Act provides that notwithstanding anything contained in the Cr.P.C., no person accused of an offence under the P.M.L.Act shall be released on bail unless the Court is satisfied that there are reasonable grounds for believing that he/she is not guilty of such offence and that he/she is not likely to commit any offence while on bail. The Bombay High Court in its order dated 28.1.2022 passed in **Cr. Application (BA) No. 1149 of 2019 (Ajay Kumar vs. Directorate of Enforcement, Nagpur)** held as follows:

“49. We may reiterate that the reference arose out of statutory jurisdiction and not constitutional jurisdiction of this Court. Unless there is proper challenge and pleadings, the issue of constitutional validity cannot be undertaken. Undoubtedly, the Legislature has power and competence to amend the provisions of the Act. Unless the amended provision is struck down by the Courts, it cannot be watered down. Since after the amendment the entire complexion of section 45 has been changed, we are not in



agreement with the contention that the entire section has to be reenacted by way of amendment after decision in the case of *Nikesh Shah (Supra)*. Therefore, in our opinion, the twin conditions would revive and operate by virtue of Amendment Act, which is on date in force. In view of that, we answer the reference by stating that the twin conditions in section 45(1) of the 2002 Act, which was declared unconstitutional by the judgment of the Apex Court in *Nikesh T.Shah vs. Union of India (2018) 11 SCC 1*, stand revived in view of the Legislative intervention vide Amendment Act 13 of 2018.”

11. Further, the Hon’ble Supreme Court in its order dated 4.1.2022 passed in **Cr. Appeal no. 21 of 2022 (The Assistant Director, Enforcement Directorate vs. Dr. V.C. Mohan)** held as follows :

“Mr. Dama Seshadri Naidu, learned senior counsel appearing for the respondent invited our attention to the dictum in paragraph 42 of the judgment in *Nikesh Tarachand Shah vs. Union of India & Anr.* reported in (2018) 11 SCC 1. The observations made therein have been misunderstood by the respondent. It is one thing to say that Section 45 of the PMLA Act to offences under the ordinary law would not get attracted but once the prayer for anticipatory bail is made in connection with offence under the PMLA Act, the underlying principles and rigors of Section 45 of the PMLA Act must get triggered-although the application is under Section 438 of Code of Criminal Procedure. As aforesaid, the High Court has not touched upon this aspect at all. It is urged before us by the respondent that this objection was



never taken before the High Court as it is not reflected from the impugned judgment. It is not a question of taking objection but the duty of court to examine the jurisdictional facts including the mandate of Section 45 of the PMLA Act, which must be kept in mind. Accordingly, we deem it appropriate to set aside the impugned judgment and order and relegate the parties before the High Court for reconsideration of Criminal Petition No. 4134 of 2021 afresh for grant of anticipatory bail filed under Section 438 of the Code of Criminal Procedure in connection with stated PMLA offence.”

12. In view of the facts and circumstances, as stated hereinabove, in view of the allegations leveled against the petitioner, the materials on record as also in view of section 45 of the P.M.L. Act 2002, in the opinion of this Court, the petitioner has not made out a case for grant of anticipatory bail and as such, the application stands rejected.

(Prabhat Kumar Singh, J)

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