

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **Bail Application No. 799/2010**

% Reserved on: 3rd June, 2010

Decided on: 4th June, 2010

Jitender Pal Singh @ J.P. Singh

S/o Shri S.S. Giani

R/o D-6/13, Vasant Vihar, New Delhi

..... Petitioner

Through: Mr. Arvind Nigam, Sr. Advocate with Mr.
H. C. Bhullar, Advocate

versus

C.B.I. (State)

Through The Investigating Officer

CBI/ACU-IX/New Delhi

Anti Corruption, Block4,

C.G.O. Complex, New Delhi.

..... Respondent

Through: Ms. Sonia Mathur and Mr. Sushil Kumar
Dubey, Advocates with I.O. Satender
Goswami.

Coram:

HON'BLE MS. JUSTICE MUKTA GUPTA

1. Whether the Reporters of local papers may
be allowed to see the judgment? Yes
2. To be referred to Reporter or not? Yes
3. Whether the judgment should be reported
in the Digest? Yes

MUKTA GUPTA, J.

1. This is a petition for grant of regular bail in case RC No. 02(A)/10/ACU-IX/CBI dated 22-04-2010 under Sections 7, 8, 11, 13(2) R/w 13(1)(d) of the Prevention of Corruption Act, 1988 (hereinafter 'the PC Act').

As per the prosecution this case was registered on the allegations that Dr. Ketan Desai, President, Medical Council of India (MCI) entered into a criminal conspiracy with Sh. J.P. Singh, the petitioner herein with an intention to obtain bribe for grant of permission to Gyan Sagar Medical College, Patiala. The concerned management of this medical college became party to this conspiracy by agreeing to pay the bribe in order to get certain shortcoming in the infrastructure overlooked by the MCI. The CBI received a source information on the basis of which enquiry was conducted during which the relevant mobile phones were intercepted.

2. It is contended that after registration of the case, a team was deployed at the residence of the Petitioner at D-6/13, Vasant Vihar, New Delhi to intercept Dr. Kamaljeet Singh who was coming to deliver the bribe amount of Rs. 2 Crore. At about 12.50 hrs on 22-4-2010, Dr. Kamaljeet Singh while coming out of the house of Sh. J.P. Singh was challenged and interrogated and on his disclosure, Rs.2 crore was recovered from the office located at the ground floor of the residential premises of the Petitioner at D-6/13 Vasant Vihar, New Delhi.

3. Learned counsel for the CBI states that the present is a case of larger conspiracy wherein the Petitioner along with other persons was acting as a tout to Dr. Ketan Desai, the former President, Medical Council of India (MCI). Dr. Ketan Desai was not only passing on prior information to the

Petitioner pertaining to the schedule of inspection by MCI but also ensured that favourable report would be given by the Inspecting Team of MCI. According to learned counsel, despite the fact that the Gyan Sagar Medical College was lacking in certain requisite infrastructure, which could not have been complied with in such a short duration, the Petitioner and Dr. Ketan Desai helped the Institute to get favourable report from MCI in lieu of a consideration of an amount of Rs. 2 crore to be delivered through the Petitioner to Dr. Ketan Desai. In this regard statement of a witness recorded under Sec. 164 CrPC has been relied upon.

4. Learned counsel for the CBI has also produced the transcript of the conversations between the parties. The transcript of the conversation show continuous interaction between Dr. Ketan Desai, Sukhvinder Singh, Jitender Pal Singh, Kamaljeet Singh, K.A. Paul and N.S. Bhango and the conversations are co-relatable to the dates on which the events took place. The conversation amongst the accused persons reflect the motive, demand of bribe and the modus operandi for the favours shown to the Gyan Sagar Medical College and Hospital, Patiala. It is submitted that the Petitioner has a foreign account and a report in relation to the deposits made therein has been called from the Financial Intelligence Unit. It is submitted that two accused persons i.e., Nirmaljeet Singh Bhango and K.A. Paul are still absconding.

5. It is also submitted that the investigation is also prima facie revealing that the Petitioner and Dr. Ketan Desai are involved in such an incident relating to one more medical college. According to her, the Petitioner is an influential person and there is every likelihood of his tampering with the evidence in case he is released on bail.

6. Learned counsel for the Petitioner contends that as per the information received with the CBI, the allegation against the Petitioner is of providing expensive gifts to the co-accused Dr. Ketan Desai from time to time. Even as per the information, the permission to Gyan Sagar Medical College was granted after completing all the necessary formalities. According to learned counsel a Committee was set up by the Central Govt to look into the issue of grant of approval to the Gyan Sagar Medical College which also found no irregularity in it. It is stated that as per the search list, copy whereof was provided to the Petitioner, the investigating agency itself was not aware whose money it was. Moreover, the amount of Rs.2 crore in the search list at item No.50 has been added subsequently after the witnesses had signed the same.

7. It is contended that taking the allegations on the face of it, the only role alleged against the petitioner was that he was acting as a tout and there is no allegation that the petitioner has received any consideration in the said transaction. The case of the prosecution is that whatever he took was to be passed on to the main accused Dr. Ketan Desai. Thus, at best the petitioner is a

carrier. As regards the telephonic conversation, reliance is placed on ***Mahabir Prasad Verma v. Dr. Surinder Kaur AIR 1982 SC 1043***, wherein it was held that the evidence of tape-recorded conversation, at best, is corroborative evidence and in the absence of evidence of any such conversation, the tape-recorded conversation is indeed no proper evidence and cannot be relied upon. Reliance is also placed on ***Ravi Singhal v. Union of India & Anr., 1993 JCC 306; Sukh Ram v. C.B.I. 64 (1996) DLT 633*** and ***R. Vasudevan v. C.B.I. 2010 III AD (CRL) (DHC) 69*** to contend that the petitioner has already spent 44 days in custody and in any case investigation has to be completed with a period of 60 days and thus, the investigation being almost complete, there is no likelihood of the petitioner's interfering with the investigation. The statement of the witness Lakhvinder Singh is stated to be unreliable, as the search list shows that only one person came out from the car and thus either it could be the other person or the driver Lakhvinder Singh.

8. With regard to the investigation qua foreign bank account, it is stated by learned counsel for the Petitioner that the CBI has no power to investigate on this aspect and if at all any case for violation of the Foreign Exchange is made, the Petitioner would be dealt for the same in accordance with the provisions of FEMA.

9. The Petitioner was arrested on 22nd April, 2010 and is in judicial custody since 1st May, 2010. Learned counsel for the Petitioner states that the

petitioner is not a public servant, and thus, Sections 7, 11 and 13 of the PC Act are not applicable to him. At best, the only offence which the petitioner can be alleged to be involved in, is under Section 8 of the PC Act wherein the maximum sentence is five years. The investigation is almost complete and nothing is to be recovered from the Petitioner as he is in judicial custody. Moreover, the Petitioner is the only son of his parents and there is nobody to take care of his ailing parents in this old age.

10. I have heard learned counsel for the parties. I have also perused the statements of the witnesses and the transcript of the conversations. The same prima facie disclose the commission of offences of conspiracy under Sections 7, 8, 11, 13(2) R/w 13(1)(d) of the PC Act. The issue relevant at the present juncture is whether the Petitioner should continue in incarceration pending filing of the charge sheet and trial or should he be released on bail. Undoubtedly, corruption is a menace which is affecting the entire progress of the country and is corroding the entire system. It may be noted that in the present case, the Petitioner was not a public servant but was acting as a tout for a public servant who is the main accused i.e., Dr. Ketan Desai. No further recovery is to be made from the Petitioner. The Petitioner has been in custody for a period of nearly 44 days.

11. As per learned counsel for the CBI during the course of investigation, the involvement of the Petitioner with Dr. Ketan Desai in another

case wherein approval was granted to one more medical college, is also surfacing. It is stated that as and when sufficient prima facie material is available with regard to the other college, a separate FIR will be registered against the accused involved therein.

12. In view of the fact that the Petitioner is in custody for the last 44 days, at this stage, the purpose is not of pre-trial detention. The petitioner is not the main accused. He was only acting for and on behalf of the main accused Dr. Ketan Desai. There is no evidence as yet that any part of the sum of Rs. 2 crore recovered was meant for the Petitioner. In view of these facts, I am inclined to grant bail to the Petitioner. It is directed that the Petitioner be released on bail on his furnishing a personal bond in the sum of Rs. 1 lakh with two sureties of the like amount, subject to the satisfaction of the Trial court/ACMM. The Petitioner will deposit his passport with the Investigating Officer immediately, who will deposit the same with the trial court on filing of the charge sheet. The Petitioner will not leave the country without the prior permission of the trial court.

13. The petition stands disposed of.

(MUKTA GUPTA)
JUDGE

JUNE 04, 2010
‘raj’