

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: July 21, 2011
Decided on: August 11, 2011

+ **BAIL APPLICATION NO.884/2011**

SIDDHARTHA BEHURA

....PETITIONER

Through: Mr. Aman Lekhi, Sr. Advocate with
Mr. Pramod Jalan, Advocate & Ms.
Meenakshi Lekhi, Advocate.

Versus

C.B.I.

.....RESPONDENT

Through: Mr. Uday Lalit, Sr. Advocate/Special
Public Prosecutor with Ms. Sonia
Mathur, Advocate.

CORAM:
HON'BLE MR. JUSTICE AJIT BHARIHOKE

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

AJIT BHARIHOKE, J.

1. Siddhartha Behura, the petitioner herein is seeking bail in case RC No.DAI-2009-A-0045 P.S. ACB, CBI New Delhi under Sections 420,

468, 471 and 120B IPC and 13(2) read with Section 13(1)(d) of the P.C. Act.

2. Briefly stated, allegations in the charge sheet are that during the period of May 2007-2008, the petitioner, a public servant, entered into a criminal conspiracy with Shri A.Raja, Minister of Communications and Information Technology, Shri R.K. Chandolia, PS to the Minister and the other co-accused persons with the object to cause undue pecuniary advantage to the private persons named as accused in the charge sheet and their companies, namely, M/s Swan Telecom Pvt. Ltd. and Unitech Group of Companies and in furtherance of said conspiracy, he and his co-accused persons caused undue pecuniary advantage to M/s Swan Telecom Pvt. Ltd. and Unitech Group of Companies and caused corresponding loss to the State exchequer by abuse of their official position.

3. Briefly put, case of the prosecution is that in order to achieve the end of conspiracy, accused R.K. Chandolia on 24th September 2007 inquired from the concerned officer of "Access Services Cell" of Department of Telecommunication if the applications of Unitech Group of Companies for grant of UAS Licences were received and instructed that after the receipt of their applications, no further applications be accepted. PW Avdesh Kumar Srivastava, DDG(AS-I) told R.K. Chandolia that it may not be proper/fair to abruptly refuse to receive the applications. A note dated 24th September, 2007 in this regard was

initiated by the Department on instructions of R.K. Chandolia. Accused A.Raja approved the note and ordered issue of press note informing the public about the cut off date of 01.10.2007 for acceptance of the applications for UASL. A Press Release was accordingly published in Newspapers on 25th September, 2007. Though hundreds of applications were received after 25th September, 2007, those applications were not considered for issue of UAS Licence.

4. Charge sheet also discloses that as per the existing policy, the allottees of Letters of Intent (LOI) were given sufficient time to comply with the conditions of LOI. The licences were issued on the basis of seniority of the date of applications and after the issue of UAS Licences, the licensee could apply for allocation of spectrum.

5. On 2nd November, 2007, Director (AS-I) DOT initiated a note seeking for issue of Letters of Intent as per the existing policy of first come first served. The then Telecom Secretary returned the file with the noting, "action may be initiated after orders of MOC & IT are obtained on the issue. He had expressed his desire to discuss this further." A fresh note was put up by Director (AS-I) of DOT on 7th November, 2007 highlighting the existing policy and pointing out that a policy statement in that regard was made in Rajya Sabha on 23rd August, 2007. A draft Letter of Intent was also put up along with the note for approval of the Minister. Accused A.Raja approved the note, but deliberately replaced Para 3 of the draft LOI with the following: "the

date of payment of entry fee would be priority date for signing the licence agreement. If the date of payment of entry fee in more than one case is the same, then the licence will be first signed with the applicant whose application was received earlier."

6. It is alleged that on 23rd November, 2007, the Licensing Finance Branch of DOT objected to the change made in LOI by accused A.Raja and suggested that it appears logical to keep the date of applications as date of priority for issue of licence, provided the applicant is able to establish that he is eligible on the date of application and is also eligible when the LOI is issued. This note was endorsed by Member(Finance), Telecom Commission and Secretary(Telecom) who also suggested the revision of entry fee for new licences in line with revision of fee for dual technology spectrum as suggested by Ministry of Finance in its letter. Accused A.Raja, however, ignored the advice to keep the date of application as date of priority for issue of licence or to review and enhance the licence fee and this resulted in a loss to the tune of almost of ₹ 30,000/- crores to the State exchequer.

7. It is further alleged that while putting up a note dated 7th January, 2008 for processing UASL applications received upto 25th September, 2007, Director (AS-I) reiterated the existing policy and noted, "sequence of granting of LOIs/UAS Licence has been maintained till now to the date of respective application for a particular service area."

In his note DDG(AS-I) raised the issue of eligibility and clarified that the

eligibility on the date of application needs to be considered. When the matter was put up before accused Siddhartha Behura, he attached a draft press release for approval of the Minister. Accused A.Raja, MOC & IT asked Secretary (Telecom) to show the draft press release to the Solicitor General and seek his legal opinion. Accused Siddhartha Behura personally took the file to the Solicitor General of India, who advised "I have seen the matter. Issues regarding new LOIs are not before any court. What is proposed is fair and reasonable. The press release makes for transparency. This seems to be in order." However, after obtaining the advice of Solicitor General, accused A.Raja, in conspiracy with accused Siddhartha Behura, dishonestly deleted the last paragraphs of the approved press release shown to the Solicitor General which recorded, "However, if more than one applicant complies with LOI condition on the same date, the inter-se seniority would be decided by the date of application" and approved the amended draft of press release. This was done to portray as if the amended draft had the approval of the Solicitor General.

8. On 10th January, 2008, the Press Release was put up on the website of DOT, calling upon the applicants to collect the LOIs from Siddhartha Behura at 3:30 pm. Four counters were created for collection of LOIs. The LOIs were, however, distributed in a disorderly manner and not as per the seniority of applicants. This resulted in shuffling of priority of the applicants as against the seniority of date of application and provided them an opportunity to deposit entry fee prior

to the applicants who had applied for licence before them. It is alleged that in the aforesaid manner, the accused public servants managed to disturb the seniority of applicants as per the date of application and caused undue advantage to the accused persons/their companies, who managed to get UAS Licence which they otherwise would not have got but for the change in policy of first come first served with dishonest intention by the public servants.

9. Learned Shri Aman Lekhi, Sr. Advocate appearing for the petitioner has submitted that the petitioner has been wrongly roped in as a co-accused in this case despite of the fact that there is no evidence worth name to suggest that the petitioner was party to the conspiracy with the other public servants who caused undue advantage to the private players or corresponding undue loss to the Government by abuse of his office. Expanding on the argument, learned counsel submitted that the decision regarding the fixing of cut off date for receiving applications for UAS Licence or the non-revision of the licence fee and fixing the entry fee at 2003 level without indexation or current value were taken by the Government in the year 2007 when the petitioner was not even in the Department of Telecommunication. He joined the Department as Secretary (Telecom) on 01.01.2008 i.e., subsequent to the decisions regarding non-revision of entry fee or the cut off date. As such, he cannot be said to have played any role in fixing the cut off date for receipt of applications or non-revision of licence fee. Learned counsel submitted

that the petitioner cannot be termed as a co-conspirator merely because the petitioner had earlier worked under accused A.Raja in the Ministry of Environment, particularly when there is no evidence of meeting of mind between accused A.Raja and the petitioner for deciding of the cut off date or the entry fee.

10. It is further submitted that the petitioner had no role to play in the tinkering with the policy of first come first served with regard to the issue of UAS licence. Learned counsel contended that original first come first served policy was approved in 2003 and implemented till 2008 at the level of the then Minister of Communications and Information Technology. As per the transaction of business rules, any change in said policy was within the competence of the Minister. This fact is so recorded in the charge sheet itself, which also refers to the letter dated 26.12.2007 written by accused A.Raja to the Prime Minister. This letter was preceded by a series of interactions between the Minister of Communications and Information Technology and the officers in the Ministry, all of which took place much prior to the petitioner joining as Secretary (Telecom) in the Ministry. Learned counsel submitted that during the processing of issue regarding change of policy, at no level did any officer have any doubt about the correctness of the policy. The petitioner had gone by the noting on record and in fact, inserted changes in the proposed Press Release in order to bring about improvements. The petitioner had inserted a clause in the proposed Press Release that where there was more than

one application complying with LOI on the same date, the inter se seniority be decided by the date of application. The Minister A.Raja, however, disapproved this clause and the matter was then placed before the Solicitor General, who approved the same as “being in order”. It is submitted that if the Minister, in exercise of his executive powers, had deleted certain portions from the approved Press Release which was put up for consideration, for that the petitioner cannot be blamed. Learned counsel for the petitioner has thus concluded that that the petitioner, in his capacity as a civil servant, has honestly and diligently performed his duty as a civil servant in implementing the policy decisions taken by the Government and for performing his official duty, he cannot be said to have committed any offence. It is further contended that the petitioner had no role in setting up of four counters. Decision for setting up of four counters was taken as there were four Directors in the Department. Thus, it is strongly urged that the petitioner be admitted on bail.

11. Learned Special Public Prosecutor, on the contrary, has opposed the bail application. He has contended that undisputedly the petitioner joined as Secretary in the Department of Telecommunication on 01.01.2008 i.e. after the decision regarding cut off date and the entry of licence had been taken. He submits that there can be no dispute with the proposition that only because the petitioner had earlier worked in the Ministry of Environment under the charge of co-accused A.Raja, no inference of conspiracy can be drawn unless there is some

other material in support of the theory of conspiracy.

12. Learned Special PP has taken me through various notings in the file to show prima facie complicity of the petitioner in the conspiracy to confer undue pecuniary advantage upon M/s Swan Telecom Pvt. Ltd by abuse of his office. Learned Special PP submitted that while putting up a note dated 7th January, 2008 for processing UASL applications received upto 25th September, 2007, Director (AS-I) reiterated the existing policy and noted, "sequence of granting of LOIs/UAS Licence has been maintained till now to the date of respective application for a particular service area." In his note DDG(AS-I) raised the issue of eligibility and clarified that the eligibility on the date of application needs to be considered. When the matter was put up before accused Siddhartha Behura, he forwarded a draft press release for the approval of the Minister. Accused A.Raja, MOC&IT asked Secretary(Telecom) to show the draft press release to the Solicitor General and seek his legal opinion. Accused Siddhartha Behura personally took the file to the Solicitor General, who advised "I have seen the matter. Issues

regarding new LOIs are not before any court. What is proposed is fair and reasonable. The press release makes for transparency. This seems to be in order." However, after obtaining the advice of Solicitor General, accused A.Raja in conspiracy with accused Siddhartha Behura dishonestly deleted the last paragraphs of the approved press release shown to the Solicitor General which recorded, "However, if more than one applicant complies with LOLI condition on the same date, the inter-se seniority would be decided by the date of application" and approved the amended draft of press release. This was done to portray as if the amended draft had the approval of the Solicitor General. Learned Special PP has thus submitted that this circumstance also, prima facie, show complicity of the petitioner in the conspiracy to benefit M/s Swan Telecom Pvt. Ltd.

13. Learned Special PP further submitted that M/s Tata Tele Services Ltd. (TDSL) had also applied for UAS licence under dual technology policy and it was also issued the LOI. TDSL also deposited the requisite licence fee for allocation of GSM spectrum on 10.01.2008, the date on which M/s. Swan Telecom Pvt. Ltd. deposited the licence fee. However, by tinkering with the policy and deleting the important features from the draft Press Release, the petitioner, in furtherance of conspiracy with his co-accused A.Raja, ensured that instead of date of application, time of deposit of licence fee shall determine the seniority for allotment

even in the cases in which parties have deposited the licence fee on the same date, and caused undue pecuniary benefit to M/s Swan Telecom Pvt. Ltd. Learned Special PP has drawn on my attention to the draft Press Release which the petitioner allegedly took to the office of Solicitor General personally for seeking legal opinion and the Press Release which was issued on 10.01.2008. Learned Special PP submitted that the draft Press Release which was opined to be legally in order by the Solicitor General had a last paragraph stating "However, if more than one applicant complies with LOLI condition on the same date, the inter-se seniority would be decided by the date of application". Learned Special PP submitted that after seeking legal advice from the Solicitor General, the file was put up before the Minister who appended a note to delete the above noted last paragraph from the Press Release, which had a potential to change the policy for issue of LOI. It is submitted that since the petitioner was aware that the legal opinion of the Solicitor General was obtained on a draft Press Release different from the Press Release sought to be released, as a conscientious public servant, he was expected to send the amended draft Press Release as approved by the Minister for fresh legal opinion instead of giving a colour that the amended draft Release had legal approval of the Solicitor General. He, however, did not do so which shows his complicity in the conspiracy.

14. I have considered the rival submissions and perused the material on record.

15. The submissions made on behalf of the petitioner raise a crucial question as to what is the role of senior officers occupying key position such as Secretaries in the Ministry. Is the Secretary required to follow the dictums of his political masters in utter disregard of the scheme of Constitution? Or the Secretary while taking decision is required to look into material facts and use his independent discretion, volition and decision making authority to implement the policy of the Government in the context of the Constitutional mandate of fair play and equity? The answer obviously is that a senior officer occupying the key position of Secretary to the Ministry is not to follow dictum of the Minister blindly. He has to implement the government policies within the framework of the Constitution and if he notices anything violative of the Constitutional mandate/law, it is his obligation to bring the fact to the notice of the Minister by putting his objection on the record. Now the question arises whether the petitioner Siddhartha Behura in his capacity as Secretary (Telecom) has diligently performed his duty or is there material to prima facie show that he was acting in connivance with the Minister i.e. Accused A.Raja and other public servants with the object to confer undue pecuniary advantage on the private players, in violation of the policy and utter disregard of the principle of fair play and equality which is guaranteed under the Constitution of India.

16. As regards the eligibility of M/s Swan Telecom Pvt. Ltd. as per policy guidelines, charge sheet reveals that co-accused entered into a criminal conspiracy with the object to enable Reliance ADA Group

Companies to get UAS Licences for 13 circles which they were not eligible to get in view of Clause 8 of UASL guidelines. In order to circumvent the aforesaid ineligibility clause and to cheat the Department, the co-accused Gautam Doshi, Hari Nair and Surendra Pipara created and structured a new company M/s Swan Telecom Pvt. Ltd. which applied for UASL Licence on 2nd March, 2007. The above referred co-accused persons had structured M/s Swan Telecom Pvt. Ltd. in such a manner that its equity holding was shown as 90.1% with M/s Tiger Traders Pvt. Ltd. and 9.9% with M/s Reliance Telecom Ltd. The investigation into holding structures of M/s Tiger Traders Pvt. Ltd. revealed that aforesaid company was actually funded by the Group Companies of M/s Reliance ADA Group. It was revealed that ₹3 crores utilized by M/s Tiger Traders Pvt. Ltd. in January 2007 and ₹95.51 crores used by said company in March, 2007 to subscribe to majority equity shares of M/s Swan Telecom Pvt. Ltd. was arranged through Group Companies of Reliance ADA Group. Besides that, a sum of ₹992 crores, which constituted the bulk of networth of M/s Swan Telecom Pvt. Ltd. was also provided by Reliance Telecom Ltd. under the garb of subscribing to preferential shares to M/s Swan Telecom Pvt. Ltd. Those preferential shares were purchased by Reliance Telecom Ltd. at abnormally high premium of ₹999/- per share of face value ₹1/-, although M/s Swan Telecom Pvt. Ltd. had no business history at that time. Aforesaid amount was immediately returned by M/s Swan Telecom Pvt. Ltd to M/s Reliance Communications Ltd. on the pretext of

advance against a purchase order. These transactions were carried out on the instruction of co-accused Gautam Doshi and Hari Nair.

17. Charge sheet also discloses that in order to achieve the end of conspiracy, above three co-accused persons created two other companies M/s Zebra Consultancy Services Pvt. Ltd. and M/s Parrot Consultants Pvt. Ltd. The equity holding of aforesaid two companies and M/s Tiger Traders Pvt. Ltd. was structured by co-accused Gautam Doshi, Hari Nair and Surendra Pipara in such a manner that those companies were cross-holding each other in interlocking structure during the period w.e.f. March, 2006 to 4th April, 2007. This interlocking was done in such a manner that 50% equity shares of M/s Zebra Consultancy Services Pvt. Ltd. and M/s Parrot Consultants Pvt. were purchased by M/s Tiger Traders Pvt. Ltd., 50% equity shares of Parrot Consultants Pvt. Ltd. and Tiger Traders Pvt. Ltd. were purchased by M/s Zebra Consultancy Services Pvt. Ltd. and 50% equity shares of Zebra Consultancy Services Pvt. Ltd. and Tiger Traders Pvt. Ltd. was purchased by M/s Parrot Consultants Pvt. Ltd. This arrangement ensured that none of those three companies was the absolute owner of any company and this practically left the control of all the three companies in the hands of the Directors i.e. the co-accused persons. In order to achieve the end of conspiracy, Hari Nair, in league with Gautam Doshi and Surendra Pipara falsified the records of Board Meetings of Swan Telecom Pvt. Ltd. and Tiger Traders Pvt. Ltd to show that M/s. Tiger Traders Pvt. Ltd. was held by India Telecom

Infrastructures Fund of Ashok Wadhwa Group and also to show the appointment of Ashok Wadhwa as Director of those companies and his presence during the meetings.

18. Before the LOI could be granted, M/s Reliance Communications Ltd., a group of Reliance ADA Group got GSM spectrum in those 13 circles pursuant to its applications under dual technology policy. Thus, the application dated 2nd March, 2007 moved through M/s Swan Telecom Pvt. Ltd was of no use to Reliance ADA Group. Accordingly, Reliance ADA Group withdrew its holding from M/s Swan Telecom Pvt. Ltd. and the accused Gautam Doshi, Hari Nair and Surendra Pipara transferred the control of M/s Swan Telecom Pvt. Ltd. to the co-accused Shahid Balwa and Vinod Goenka in order to facilitate them to cheat DOT by getting UAS Licence in the name of M/s Swan Telecom Pvt. Ltd. which company, till 18th October, 2007 was ineligible for UAS Licence in view of Clause 8 of the policy guidelines.

19. The charge sheet further discloses that on the receipt of letter dated 07.12.2007 from M/s Swan Telecom Pvt. Ltd. informing about the change in the share holding pattern of the company, a clarification was sought from the company vide letter of the Department dated 10.12.2007 and some information/documents were supplied to the Department on 12.12.2007. On the receipt of information, LS/IP Wings were requested to further examine the case of M/s Swan Telecom Pvt. Ltd. with respect to eligibility conditions, such as net worth, equity,

substantial equity and FDI/foreign collaboration etc. The IP cell, vide its note 13/N on the file indicated that the company was compliant to FDI requirement. The LF branch vide its note 18/N recorded, "M/s Swan Telecom Pvt. Ltd. has indicated that 90.10% of the paid up equity capital of ₹109.01 crores was owned by M/s Tiger Traders Pvt. Ltd. and 9.90% of the paid up equity capital was held by M/s Reliance Telecom Ltd. There were 99.20 lakhs preference shares of face value of Re.1/- each owned by M/s Reliance Telecom Ltd." It was also observed by the finance branch that "net worth of M/s Swan Telecom Pvt. Ltd. with equity share capital of ₹ 109.01 crores, preference share capital of ₹992 crores, share premium (on preference shares) of ₹ 991.008 crores and a profit of ₹3.308 crores is indicated as ₹1104.318 crores." The finance branch, however, did not give an opinion whether M/s Swan Telecom Pvt. Ltd. fulfilled the eligibility criteria for paid up equity capital, net worth and substantial equity as on the date of application. Thus, a note was put up, being 19/N, stating that the finance branch (LF) was requested to examine and ascertain the fulfilment of eligibility conditions and the observation of finance branch could be construed that the company meets the eligibility criterion as nothing otherwise has been observed. "Finance branch may confirm please". On note 20/N, AS-1, on 09.01.2008, recommended following for consideration:

"(i) In file No. 20-100/2007-AS-I (Part-C), it has been decided by Hon'ble MOC&IT on 2.11.2007 that LOIs may be issued to the applicants (applications) received upto 25.09.2007. Subsequently on 4.12.2007, Hon'ble MOC&IT desired that this decision should be implemented. It was also decided that "for the purpose of LOI

proforma as issued in the past may be used for LOIs in these cases also.”

(ii) As per Para 8 above, one application for J&K service area is not compliant in respect of object clause, however, 13 applications which were received on 02-03-2007 i.e. before 25.09.2007 are in order and may be considered for grant of LOIs for UASL for Andhra Pradesh, Delhi, Gujarat, Haryana, Karnataka, Kerala, Maharashtra, Mumbai, Punjab, Rajasthan, Tamilnadu, Uttar Pradesh (East) & Uttar Pradesh (West) service areas. Accordingly, draft LOIs for the above said service areas has been attempted and placed at DFA 133/C to 145/C for perusal. It is to mention that the case file for policy regarding grant of LOI in the present cases has already been submitted for decision in a separate file No. 20-100/2007-AS-I (Part-C). LOIs may be issued pursuant to appropriate decision in this regard.

(iii) As per the observations made in para 7 above and on 18/N, finance branch is also to ensure that the above proposal for grant of LOIs in 13 service areas is in order w.r.t. eligibility criterion for paid up equity capital, networth and substantial equity before approval of draft LOIs proposed.

(iv) Shri R.K.Gupta, ADG (AS-I) may be authorized to sign and issue LOIs for & on behalf of the President of India.”

20. Pursuant to the above said note 20/N of A.S.-I, A.O. (LF-II) observed thus vide his note dated 09th January, 2008:

“The case was earlier examined by us on 18/N. Based on the available records, it is observed that M/s Swan Telecom Pvt. Ltd. have equity share capital of ₹109.01 crores and Networth of ₹1100.28 crores as on date of application as certified by their Company Secretary. This should be sufficient for the 13(Thirteen) Service Areas. They have furnished the details of their promoters i.e. M/s. Tiger Trustees Pvt. Ltd. (Formerly Tiger Traders Pvt. Ltd.). It was observed that the details of M/s Tiger Traders Pvt. Ltd. one of the promoters of M/s Swan Telecom Pvt. Ltd. as on date of application is not submitted.

It may be mentioned that there were allegation of non compliance of substantial equity clause. We have no means to verify that. AS Branch may like to take care of it.

Submitted please.”

21. From the above it is, prima facie, evident that the LF branch of the Department had showed its inability to give a clear opinion about the eligibility of M/s Swan Telecom Pvt. Ltd for grant of UAS licence

under the policy guidelines because of failure of M/s Swan Telecom Pvt. Ltd. to furnish the details of share holding pattern of one of its promoters M/s Tiger Traders Pvt. Ltd. The petitioner, despite of the above, instead of seeking requisite information from M/s Swan Telecom Pvt. Ltd., without any basis opted to put up a conclusive note “they fulfil the requisite conditions, LOI may be issued”. This circumstance, prima facie, shows undue interest of the petitioner Siddhartha Behura in M/s Swan Telecom Pvt. Ltd.

22. Secondly, perusal of the charge sheet also shows that a draft press release required to be issued for information of the applicants for UAS licence was put up before the Minister A.Raja for approval. The last paragraph of draft press release read as under:

“However, if more than one applicant complies with LOI condition on the same date, the inter-se seniority would be decided by the date of application”

23. Accused A.Raja, instead of approving the draft press release, directed for seeking legal opinion from the Solicitor General before the issue of press release. Investigation revealed that the petitioner himself personally took aforesaid draft press release for seeking legal opinion from the then Solicitor General who, after examining the same, opined that the press release was in order. The file was again put up before accused A.Raja who approved the issue of press release but with deletion of the above noted last paragraph which provided that if more than one applicant complied with the LOI condition on the same

date, the inter-se seniority would be decided by the date of application. Despite of the fact that deletion of this paragraph had a potential to result in misrepresentation of the Government policy of first come first served for issue of UAS licence, the petitioner approved the issue of the amended draft press release. Prima facie, aforesaid procedure adopted by the petitioner and his co-accused A.Raja is highly inappropriate and it was done so with a view to give an impression that the press release issued on 10.01.2008 had legal approval of the Solicitor General. This circumstance also shows the complicity of the petitioner in the conspiracy. Otherwise, under the natural course of circumstances, he was expected to append his objection to the inappropriate procedure adopted by the Minister.

24. In view of the above, prima facie, involvement of the petitioner in the conspiracy to cause undue advantage to M/s Swan Telecom Pvt. Ltd. is apparent. It has come in evidence that within two months after the issue of UAS licence to M/s Swan Telecom Pvt. Ltd., a UAE company M/s Emirates Telecommunications Corporation (ETISALAT) subscribed to 11,29,94,228 shares of M/s Swan Telecom Pvt. Ltd. of face value of ₹10/- each at a huge premium of ₹275.7178 per share for a total consideration of ₹3228 crores and M/s Genex Exim Ventures Pvt. Ltd. also subscribed to 1,33,17,245 shares of M/s Swan Telecom Pvt. Ltd. at the same premium for a total consideration of ₹380,49,73,846/-. This gives a glimpse of quantum of monetary gain caused to M/s Swan

Telecom Pvt. Ltd. by the petitioner in conspiracy with other public servants.

25. In view of the above, looking into the huge monetary gain caused to M/s Swan Telecom Pvt. Ltd. and the gravity of the offence, I do not deem it a fit case for admitting the petitioner on bail, particularly when the trial is yet to commence.

26. Bail Application is dismissed.

(AJIT BHARIHOKE)
JUDGE

AUGUST 11, 2011

pst