

Court No. - 15

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14356 of 2023

Applicant :- Sanjay Prakash Rai @ Sanjay Sherpuriya

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Home Civil
Sectt. Lko And Another

Counsel for Applicant :- Vaibhav Upadhyay

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Counter affidavit filed on behalf of the State is taken on record.
2. Heard Shri S.C. Mishra, learned Senior Advocate assisted by Shri Vaibhav Upadhyay, learned counsel for the accused-applicant as well as Shri Rajesh Singh, learned A.G.A. for the State and perused the record.
3. This bail application has been moved by the accused/applicant- **Sanjay Prakash Rai @ Sanjay Sherpuriya** for grant of bail, in F.I.R./Case Crime No. 211 of 2023, under Sections 420, 467, 468, 469, 384 I.P.C. and Section 66-D IT (Amendment) Act, 2008 (Section 384 I.P.C. was subsequently added in the charge sheet), Police Station Vibhuti Khand, District Lucknow, during trial.
4. Shri S.C. Mishra, learned Senior Advocate for the accused-applicant while pressing the bail application submits that the applicant has been falsely implicated in this case and he has not committed any offence as claimed by the prosecution.
5. It is further submitted that applicant has been arrayed as an accused in this case without there being any material or evidence available against him and the allegations which have been levelled against him in the F.I.R. are to the tune that he is director of various companies which have become defaulters and he had procured many I.D's in his name and he is in a habit of posting photographs clicked with various central ministers on social platforms without any authority with the intention of defrauding innocent persons by showing his acquaintance with central

government ministers. It is also alleged that he has registered a company in the name of 'Youth Rural Entrepreneur Foundation' and on the basis of this company he is projecting himself as a social worker and also that he is close to many ministers of the government and is extracting money from the innocent persons and in this regard he had taken Rs. 5 crores + 1 crore = 6 crores in that company from leading businessmen Gaurav Dalmia to close proceedings of a case investigated by central agencies and when he was arrested, he confessed to have been involved in extracting illegal money from the general public and also that six crores were taken by him in the account of 'Youth Rural Entrepreneur Foundation' by Gaurav Dalmia and this amount was given to him in lieu of closing the case, which was being investigated by central agencies against Gaurav Dalmia.

6. Highlighting the above facts, it is vehemently submitted that all these allegations are false, concocted and could not be believed on the touchstone of probability.

7. While referring to the photographs, which have been enclosed by the State in its counter affidavit, it is submitted that no doubt has been shown by the State with regard to the authenticity of these photographs and as the applicant is a social worker, it is justified for him to be in contact with other social workers and public figures and if he is posting photographs on social platforms with regard to his involvement in social service with other social personalities, the same itself would not amount to any offence.

8. It is further submitted that the main allegation against the applicant appears to be receiving of 06 crores (05 Crs. + 1 Cr.) from one Gaurav Dalmia in the Youth Rural Entrepreneur Foundation hereinafter called YREF, who belongs to a reputed industrial family for the purpose of closing a case which was investigated by central agencies. However, no such case has been highlighted by the State, which may be said to be pending against the above named Gaurav Dalmia and secondly the said amount was given by Gaurav Dalmia willingly to M/s 'Youth Rural

Entrepreneur Foundation' vide letter dated 20.01.2023, a copy of which has been placed as Annexure No.5 to the bail application, under a decision taken by the trustees of Dalmia Family Office Trust in their meeting held on 06.01.2023 and two cheques, description of which have been given in the letter were sent to the YREF and after receipt of the same an acknowledgment of the same was also sent by the Director of the YREF, namely, Pradeep Kumar Rai on 21.01.2023. A receipt of the same has also been sent to the Dalmia Family Office Trust on 21.01.2023 and intimation to the bank was also sent.

9. It is vehemently submitted that the applicant is only a 'mentor' of the said YREF while he is not having any interest therein and the said foundation, namely, 'Youth Rural Entrepreneur Foundation' is incorporated in accordance with law and a certificate of incorporation has also been issued by the Ministry of Corporate Affairs and the applicant is not managing the affairs of the said foundation and he is not a director of the company.

10. It is also submitted that YREF has also complied necessary requirements of registration at various government institutions and obtained requisite certificates and as is evident from the communication held between Gaurav Dalmia and the director of the foundation the said donation was given by Gaurav Dalmia for a social service project of the YREF, however, when a notice was sent to the above-mentioned Gaurav Dalmia by the E.D. office of U.P., Lucknow, with regard to the money sent by his family trust for charitable purpose, he (Gaurav Dalmia) wrote a letter dated 01.03.2023 to YREF, a copy of which has been placed at Page No. 119 of the paper book, whereby it is informed that he has voluntarily donated this money but unfortunately he has received a summons from the Enforcement Directorate's Office, Lucknow and they asked him as to why he had given this amount to this YREF and aggrieved by the same, he requested to return the said amount. A reply to the said letter was sent by the Director of the foundation, namely, Indu Prakash Singh on 27.03.2023 intimating Shri Gaurav Dalmia that as the account of the foundation has been freezed by the Enforcement

Directorate, the said money would be returned immediately as soon as the freeze would be lifted.

11. Highlighting above, it is vehemently submitted that donation was given by Gaurav Dalmia voluntarily for charitable and social purpose and the said by any stretch of imagination may not be termed as extortion or the money received by misrepresentation or fraude.

12. It is vehemently submitted that another charge against the applicant is with regard to keeping two Aadhaar Cards of different name. While drawing the attention of this Court towards a copy of the Aadhaar Card of the applicant placed at Page No. 156 bearing No. 4443 3084 8024 and another copy of the Aadhaar Card placed at Page No. 157, it is vehemently submitted that in the first Aadhaar card, the name of the applicant has been shown as Sanjay Prakash Baleshwar Rai while in the second Aadhaar card the number is same, however, the name has been changed as Sanjay Sherpuriya and Sherpuriya is the name of the village of the applicant and the same has been done by adopting legal recourse and the same has also been published in the Gazette of India, a copy of which has been placed at Page No. 158 of the paper book.

13. It is further submitted that the S.T.F. officials and other investigating authorities had pressurized various persons acquainted with the facts of the case to give statements against applicant and in this regard has also forced Indu Prakash and Ms. Sharmila Dalmia to give false statements as well as also to Sri D.N. Singh, who is working in the Dalmia Group.

14. It is further submitted that the investigation against the applicant has been completed and charge sheet has been filed without recording the statement of Gaurav Dalmia, who in the facts and circumstances of the case was the star witness of the alleged crime and his statement is not recorded because he would have spoken truth. It is also submitted that strangely except the applicant who was only the mentor of the 'Youth Rural Entrepreneur Foundation', no other person has been charge-sheeted yet including Gaurav Dalmia and even if all the allegations as levelled in the F.I.R. and the material collected during the course of

investigation is believed, no money has been transferred in the bank account of the applicant. The applicant was not having any criminal history prior to the lodging of the instant F.I.R. However, after lodging of this case an E.C.I.R. has been registered by E.D. officials numbered as E.C.I.R./S.T.F./04/2023 on 28.04.2023 for the purpose of keeping the applicant in jail for a long time.

In support of his submissions learned Senior counsel appearing for the applicant has placed reliance upon a judgment rendered by the Hon'ble Supreme Court reported in **(2018) 7 SCC 581 (Sheila Sebastian vs. R. Jawaharaj and another)**.

15. Learned A.G.A. on the other hand submits that the applicant has obtained and manufactured many documents pertaining to his identity by showing fake names and patronage as well as the addresses and on the basis of the same he has obtained fake Aadhaar card and he is in a habit of posting photographs clicked with different influential and political personalities and by doing so he is obtaining huge amount of money from innocent persons by showing himself as the patronage/mentor of 'Youth Rural Entrepreneur Foundation'.

16. It is further submitted that by adopting the same process the applicant in order to help Gaurav Dalmia, a leading businessmen, against whom investigation was being conducted by Central Agencies, pressurized him to give Rs.6 crores so that he may evade arrest and in this regard two cheques of Rs.5 crores and one crore each (total six crores) was received by the applicant in the bank account of 'Youth Rural Entrepreneur Foundation' , which is run by one Pradeep Kumar Rai on the instructions of the applicant.

17. It is also submitted that after investigating the allegations thoroughly and finding sufficient material, the charge sheet has been submitted and it could not be denied that the applicant being an influential person may influence the prosecution witnesses and, thus, he is not entitled to be released on bail.

18. Having heard learned counsel for the parties and having perused the record, it is reflected that the applicant has been arrested on 25.04.2023 on the basis of some information received by the informant and after making a preliminary inquiry pertaining to the facts that the applicant is director of various companies and after being declared a defaulter of many banks, he was living in Delhi and Ghazipur (Uttar Pradesh) and he is extorting huge amount of money from public by showing his relations with the top brass officials and politicians and also posting photographs with them without any authority. It is also alleged in the F.I.R. that the applicant had registered a 'Sham Company' in the name of 'Youth Rural Entrepreneur Foundation' in the name of other persons and though he is not holding any post therein but on social media platforms is showing himself to be the king pin of this company and by using the name of this company he has taken huge amount of money from different persons and in this regard he has taken Rs. 6 crores in the account of 'Youth Rural Entrepreneur Foundation' from Gaurav Dalmia, against whom some central agencies were investigating and this amount was given to the applicant for closing the case being investigated by the central agencies. It is also alleged in the F.I.R. that applicant has obtained different Aadhaar cards and other documents in order to deceive public for the purpose of extorting huge amount of money.

19. In nutshell, the allegations against the applicant are to the tune that he has posted many photographs on social media with eminent businessmen/constitutional and political identities and showing his closeness with these personalities he is extorting large amount of money from the general public and has taken Rs. 6 crores in the account of 'Youth Rural Entrepreneur Foundation Private Ltd.' for the purpose of closing the investigation done against Gaurav Dalmia by central agencies, a company wherein he is not holding any post but is controlled by him and he is a mentor/patron of the same.

20. The defence of the applicant appears to be and has been highlighted by learned Senior Counsel that clicking photographs with different constitutional authorities or political personalities and posting on social

platforms is not an offence in itself and secondly no document except an Aadhaar card is shown to have been obtained by the applicant. However, he has changed his name in Aadhar card from Sanjay Prakash Baleshwar Rai to Sanjay Sherpuriya by adopting the permissible legal process and also that there is no evidence in support of the allegations levelled in the F.I.R.

21. Perusal of the record including the case diary would reveal that so far as the allegations of obtaining two Aadhaar cards on different names is concerned, it has been highlighted on behalf of the applicant that previously an Aadhaar card was issued in the name of the applicant bearing Aadhaar No. 4443 3084 8024 by showing his name as Sanjay Prakash Baleshwar Rai, wherein his address of Gurgaon, Haryana was given and Baleshwar Rai his father and later he has suffixed the name of his village after his name and had applied for change of his name in the Aadhaar card adopting permissible and legal process. In this regard, the attention of this Court has been drawn towards a copy of the Gazette from 19.02.2022 to 25.02.2022, wherein the change of name of the applicant has been published and also the new Aadhaar Card of the applicant, a copy of which has been placed at Page No. 157 of the paper book, which would reveal that his name has been changed in this Aadhaar card as 'Sanjay Sherpuriya', while the number of the Aadhaar card had remained the same, as it was in the earlier Aadhaar card. Therefore, *prima facie* there appears substance in the submission made by learned Senior Counsel that the name of the applicant in the Aadhaar card has been changed by adopting legal and permissible procedure.

22. Coming to the next allegations against the applicant with regard to obtaining Rs. 6 crores from one Gaurav Dalmia, a business tycoon for the purpose of closing investigation being carried out against Gaurav Dalmia by central agencies. It is highlighted by learned Senior Counsel that the 'Youth Rural Entrepreneur Foundation Company Private Ltd.' is a non-profitable company registered under the Companies Act, which is engaged in doing various social activities and the applicant is purely providing mentor/patronage to the same and he is not in any way

connected with the activities of the company, as he is neither a director of the company nor working as an employee and he was never the signing authority of the company.

23. It is also shown that after applying all necessary formalities including registration of the company at different institutions, the said company was incorporated and in this regard a copy of the documents showing registration of the company and registration certificate issued by the Income Tax Department and also the PAN number of the company and 80 G registration certificate issued by the Income Tax Department and Registration of C.S.R. activities under Ministry of Corporate Programmes, memorandum of association, articles of association have been highlighted, a copy of which, has been placed on record.

24. It is submitted that during the course of various social activities the applicant had come in contact with one Gaurav Dalmia, who is a trustee of Dalmia Family Office Trust and vide letter dated 20.01.2023 authorized signatory of Dalmia Family Office Trust donated Rs. 5 crores vide cheque no. 064998 and one crore vide cheque no. 064999 to the 'Youth Rural Entrepreneur Foundation Company'. In this regard, a letter issued by one D.N. Singh, authorized signatory of Dalmia Family Office Trust placed as Annexure No.-5 (Page No.111) of the paper book, has been highlighted and it is submitted that this remittance of Rs. 6 crore to the M/s 'Youth Rural Entrepreneur Foundation Company' was given in furtherance of a decision taken in the trustees meeting of Dalmia Family Office Trust held on 06.01.2023 and this letter was addressed to Indu Prakash, Chief Operating Officer of 'Youth Rural Entrepreneur Foundation Company' and an acknowledgment of the same has been sent by the Director of the above 'Youth Rural Entrepreneur Foundation' on 21.01.2023 enclosing therewith the receipt of these cheques. A letter of date 01.03.2023 written by Gaurav Dalmia, trustee of Dalmia Family Office Trust has been highlighted, a copy of which has been placed at Page No. 119 of the paper book and which has also not been denied by the State, wherein it is written by Shri Gaurav Dalmia that the said

money i.e. Rs. 6 crores was voluntarily given by his trust to the aforementioned YREF for taking care of various social projects but unfortunately he has received a summon from the Enforcement Directorate Office, Lucknow and when he (Gaurav Dalmia) visited the office of the E.D., they asked him as to why he has given contribution to the company associated with the applicant, whereby he was shocked and that he is feeling humiliated. He requested by this letter to return the money in the same account from which it was sent and vide letter dated 27.03.2023 a reply of this letter was sent by Indu Prakash Singh, Director of YREF that in its meeting dated 27.03.2023, a decision has been taken to return the said money as soon as the freeze is lifted by the Directorate of Enforcement. It is also to recall here that the account of the YREF had already been freezed by the Enforcement Directorate by that time. In the letter written by Gaurav Dalmia, it has not been mentioned as to whether the money has been taken by playing any fraud or by extortion. However, during the course of investigation, the investigating officer appears to have recorded the statement of Indu Prakash, Officer of the YREF, Shri D.N. Singh, an officer of the Dalmia Group of Companies as well as of Mrs. Sharmila Dalmia, who is the wife of Shri Gaurav Dalmia. Smt. Sharmila Dalmia in her statement has stated that one Amit Singh had arranged a meeting of her with the applicant and as a case of E.D. was being investigated against her husband (Gaurav Dalmia) the applicant offered her that he is having connections and may safe her husband and in this regard on 17.01.2023 informed her that on that date Gaurav Dalmia would be arrested and thereafter she agreed to give Rs. 12 crores to the applicant, as she apprehended arrest of her husband and according to her Rs. 6 crores were paid by cheques and Rs. 6 crores were given by cash.

25. Witness Shri D.N. Singh, working with the Dalmia Group of Industries, in his statement clearly stated that he is not having any knowledge with regard to the payment of cash to the applicant, however, Rs. 6 crores were transferred to the above-mentioned YREF.

26. Shri Indu Prakash in his statement has stated that request letter to the Dalmia Group was not sent by him and his signatures were manipulated. However, he did not deny that thereafter a decision has been taken in the meeting of YREF held on 27.03.2023 wherein it was resolved to return the amount of 06 crores to the Dalmia Family Office Trust.

27. Surprisingly, the investigating officer has not recorded statement of Mr. Gaurav Dalmia, who was a star witness of the alleged crime and stated in its counter affidavit in para no.17, which has been written in response to para no. 14 of the bail application about the transfer of Rs. only six crores in the bank account of YREF and the said bank account is operated by one Pradeep Kumar Rai, however, on the instructions of the applicant. The State in its counter affidavit in response to para no. 16 of the bail application, wherein writing of a letter by Gaurav Dalmia for return of the money of date 01.03.2023 has been mentioned and which has been replied by the State in para no.19 of its counter affidavit, the writing of letter by Shri Gaurav Dalmia has not been denied. The applicant in para no. 21 of the bail application has categorically stated that by applying pressure the statement of Indu Prakash, Sharmila Dalmia and D.N. Singh has been obtained and the said paragraph has been replied in para no.24 of the counter affidavit filed by the State, wherein no remark has been made in this regard. The applicant is languishing in jail in this case since 26.04.2023. Admittedly before lodging of the First Information Report of the instant case, he was not having any criminal antecedents and an E.C.I.R. is said to have been filed after lodging of the first information report in this case. Rs. 06 crores which are said to have been voluntarily transferred by Shri Gaurav Dalmia are still pending in the account of the YREF and the same is promised to be returned by the YREF to Gaurav Dalmia in the decision taken in the meeting of the company. The charge sheet has already been submitted.

28. Thus, having regard to all the facts and circumstances of the case, in the considered opinion of this Court, the facility of bail may be extended

to the applicant. Thus, the bail application moved on behalf of the applicant is **allowed**.

29. Let the accused/applicant- **Sanjay Prakash Rai @ Sanjay Sherpuriya** involved in above-mentioned case, be released on bail on his furnishing a personal bond with two sureties in the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall deposit his passport with the trial court along with a copy of this order and he will not leave the territory of India without taking prior permission from the trial court concerned.

(ii) The applicant shall not tamper with the prosecution witnesses by intimidating/pressurizing the witnesses, during the investigation or trial.

(iii) The applicant shall cooperate in the trial sincerely without seeking any adjournment.

(iv) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

30. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

31. Identity, status and residence proof of the applicant and sureties be verified by the Court concerned before the bonds are accepted.

32. Observations made herein-above by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression on the merits of the case.

Order Date: 17.01.2024

Praveen