

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1989/2015**

Date of Decision : October 19th, 2015

ABDUL MUNAF KHANPetitioner

Through: Mr.Tarun Vir Singh Khehar and
Mr.Manish Sharma, Advs.

versus

C B IRespondent

Through: Ms.Sonia Mathur, Standing Counsel
for CBI along with Mr.Sushil Kumar
Dubey, Mr.Abhishek Chouhan and
Mr.Rakshit Thakru, Advs.

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

P.S.TEJI, J.

1. The present application has been filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1973 for the grant of regular bail in FIR No.RC.221/2011/E/0010, Police Station C.B.I./EO-III, under Section 120B of the Indian Penal Code read with Sections 364A, 368 & 386 of the Indian Penal Code.

2. The facts, in brief, are that the FIR of the present case was registered as two businessmen, namely, Sh. A.G. Lenin and Sh.P. Anandan were abducted and confined somewhere in South East

Delhi. The abductors demanded Rs.25,00,000/- for their release. It is further stated in FIR that Abdul Munaf and Bunty along with others are running the said abduction and extortion gang. On 28.11.2011, Abdul Munaf was found by the CBI in his residence and he was examined. In his examination, he disclosed that his associate Bunty is having the custody of the said two persons from Tamilnadu and he can take the team to the said address. He also disclosed that some other persons are associated with them in this conspiracy of contacting businessmen from different parts of the country. With the help of Abdul Munaf, his associate Bunty was also apprehended by the CBI whereupon he disclosed the whereabouts of the abducted persons. The accused persons took the CBI team to house no. C-2, Block A-3 Mohan Garden, New Delhi in which two persons namely Rakesh and Yunus were found to be kept in custody two persons namely A.G. Lenin and Anandan who stated that they have been kept in the said house in custody since 25.11.2011. Thereafter the CBI team alongwith witnesses, recovered persons namely A.G. Lenin and Anandan and abductors namely Abdul Munaf, Bunty, Rakesh and Yunus were taken by the CBI team.

3. Arguments advanced by the learned counsel for the petitioner and the learned APP for the State were heard.

4. The arguments advanced by the learned counsel for the petitioner/accused are that no complaint of their abduction was made by any of their relatives/family members; that the ransom money was alleged to be demanded and paid through RTGS which clearly shows that the money was never meant to be for any ransom; that the story of the prosecution is in serious doubt as the statement of Addl. S.P. Sh. S. Balusubramany in a connected case was contradictory; that the alleged victims have refused to recognize the petitioner in their statements; that the footage was given by the bank in a sealed condition but the same was found to be unsealed and tampered when presented before the Court; that the petitioner has already undergone custody for almost 4 years; that all the prosecution witnesses have been examined. In support of his arguments the learned counsel relied upon the judgment in the case of *Sanghian Pandian Rajkumar v. CBI and Another; Balkrishan Rajendraprasad Chaubey v. CBI and Another (2014) 12 SCC 23* in which it was observed that when there is no possibility of the conclusion of trial within reasonable period,

the accused person can be granted bail in serious offence too. Further in the case of *Anil Mahajan v. Commissioner of Customs & Anr. 2000 (53) DRJ*, this Court observed that as the main witnesses are all official witnesses and there is no reasonable apprehension that the applicant would tamper with the evidences he should be released on bail.

5. The learned Standing Counsel for CBI has opposed the bail application on the ground that in the statements of A.G. Lenin and Anandan, both the abducted persons had clearly named Bunty, Yunus and Rakesh as their abductors. They had further stated that Mr. Anandan made a call to his nephew Bhaskar who paid an amount of Rs.25,00,000/- in the account of M/s Perfect Diamond. It is also stated that the said three accused were in constant touch over the phone with someone. Further that it is apparent from the charge-sheet that during investigation it was established that accused Abdul Munaf and Bunty @ Sanjiv Radi had planned and executed the conspiracy along with others. The petitioner was in constant touch with Sanjiv Radi and the mobile used at the time of the conspiracy was also recovered from the person of the applicant. Other accused Griresh

Chandra was also arrested on 30.11.2011 and Mohd. Numan was arrested on 01.12.2011. Later on accused Basharat Ali, M. Subramani and K. Jeervani were arrested. The CBI in the present matter has placed reliance upon the case of *CBI v. V. Vijay Sai Reddy (2013) 7 SCC 452* in which the Hon'ble Apex Court observed that if there is a specific allegation of criminal conspiracy, courts should not grant bail. Further reliance was also placed on the judgment in the case of *Satish Jaggi v. State of Chhattisgarh and others (2007) 11 SCC 195* in which it was observed that while granting bail in non-bailable offences, the nature and gravity of the offence is the primary consideration.

6. The record reveals that vide order dated 22.04.2015 the Court of learned Special Judge, CBI had disposed of the application for bail moved by the petitioner/accused Abdul Munaf Khan. The grounds taken up by the said accused in this application were similar to those taken up in this petition. It is clear and apparent that the petitioner /accused along with the other co-accused entered into a conspiracy and kidnapped and abducted the victims on the pretext of supplying them yarn at a cheap rate. The accused persons had wrongfully

confined the victims and extorted Rs.25 lacs from them by putting them in the fear of grievous hurt, which were transferred in the account of M/s Perfect Diamond and that the applicant also visited the Bank and withdrew the amount but the Bank did not accede to his request.

7. In view of the gravity of offence and in the light of the observations in the case of ***CBI v. V. Vijay Sai Reddy*** (supra) and ***Satish Jaggi*** (supra) the bail application of the petitioner/accused demands to be rejected having regard to the offence committed by the abductors including the petitioner-herein as he along with others abducted the two persons and even demanded and extorted a sum of Rs.25 lacs from them. The applicant himself had admitted to committing the said abduction as he himself led the CBI team to Buntty and also led to the discovery of the abducted persons. The contention of the accused that he has been in custody for a good period of four years cannot be the sole basis of granting him bail as he did not surrender after the expiry of the term of the interim bail granted to him and thus NBW was issued against him speaks volumes about his conduct. The judgments in the cases of ***Sanghian Pandian***

Rajkumar (supra), *Balkrishan Rajendraprasad Chaubey* (supra) and *Anil Mahajan* (supra) relied upon by the petitioner are of no assistance to him as the facts and circumstances are completely different in the present case.

8. The application is accordingly dismissed. However, it is made clear that the observations made above shall not affect the merits of the case. The Trial Court is directed to expedite the trial and conclude the trial preferably within a period of six months.

(P.S. TEJI)
JUDGE

OCTOBER 19, 2015
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