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

\+ BAIL APPLN. 2044/2016

JOGINDER TYGER ..... Petitioner

Represented by: Mr. K.K. Sharma, Sr. Adv. with Mr. Rajiv Bahl, Adv.

versus

STATE (NCT OF DELHI) & ANR ..... Respondent

Represented by: Mr. Hirein Sharma, APP for State.
Mr. Sanjay Mann and Mr. Vinay Kumar, Advs. for R-2.

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA

<u>O R D E R</u>

% **03.10.2016**

<u>Crl.M.A. 15570/2016</u>

Exemption allowed, subject to all just exceptions.

<u>Bail Appln. 2044/2016</u>

1. Petitioner seeks anticipatory bail in a complaint filed by respondent Securities and Exchange Board of India (in short 'SEBI') being case No.6/2015/new case No.36/2016 titled *SEBI Vs. PACL Ltd.*

2. Learned counsel for the petitioner contends that the petitioner was not aware that he was made the Director of the Company PACL Ltd. He neither attended any meeting nor participated in the functioning of the company. Since summons were sought to be served at a wrong address, the petitioner could not be served and thus non-bailable warrants issued against the petitioner which deserves to be recalled and petitioner is entitled to be granted anticipatory bail.

3. In the complaint filed by SEBI, it was alleged that the petitioner was appointed as the Director of the Company on 5th September, 2005 and was one of the persons incharge of the day-to-day affairs of the company and all the accused sponsored collective investment schemes and raised money thereunder in violation of the provisions of SEBI Act, CIS Regulations and PFUTP Regulations. Since raising the money by the company from the general public without complying with the provisions of SEBI Act, CIS Regulations and PFUTP Regulations was a punishable offence, summons were issued against the petitioner and other co-accused. As per the complaint, even after withdrawal of the scheme with effect from 15th December, 1997, PACL Ltd. through its Directors including the petitioner continued with the scheme. Since the details were not filed as required by the notification despite repeated reminders, the complaint was filed. The investigating authority in its investigation concluded that the scheme was operated since 1996 with the feature of collective investment scheme and despite having been advised to apply for registration or wind up all its existing schemes and make repayment to the investors as per the prescribed procedure pursuant to the Notification, the accused did not desist and in the process the company collected amount of ₹44,736/- crores during the period 26th February, 2013 to 15th June, 2014 and thus cognizance was taken for the offence committed.

4. Summons were issued to the petitioner who did not appear. The address of the petitioner given in various documents was Fun Vill, Dakala Road, District Patiala, Punjab. As per report of the complainant, no Fun Village was found at District Patiala. Before this Court the petitioner submits that his address was Fun Vill and not Fun Village.

5. Though the claim of the petitioner is that he never acted as Director however there is no communication whatsoever made to the Registrar of Companies with regard to placing his resignation on record and thus, the petitioner cannot be absolved of the liability incurred by the Company and its Directors at this stage. By continuing with the schemes contrary to the provisions of SEBI Act, CIS Regulations and PFUTP Regulations, the petitioner illegally took investments from a large number of investors. As regards summons could not be served as they were sent to the wrong address, no material was placed on record that Fun Vill. existed and 'Vill." did not imply village.

6. Considering the facts of the case, I do not find it to be a fit case for grant of anticipatory bail. Petition is dismissed.

MUKTA GUPTA, J.

OCTOBER 03, 2016
'v mittal'