

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M No.46946 of 2017

Date of decision : 24.09.2018

D. K. Sethi

.....Petitioner

Versus

Central Bureau of Investigation

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Harsimran Aulakh, Advocate and
Mr. B. B. Bagga, Advocate for the petitioner.

Mr. S. S. Sandhu, Special Prosecutor for respondent-CBI.

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DAYA CHAUDHARY, J.

Petitioner D. K. Sethi has approached this Court by way of filing present petition under Section 439 of the Code of Criminal Procedure, 1973 (for short – 'Cr.P.C.') for grant of regular bail to him in case FIR No.RCBD1/2015/E/0010 dated 19.10.2015 registered by CBI, BS & FC, New Delhi under Sections 420, 467, 468, 471, 120-B of the Indian Penal Code (for short – 'IPC') read with Section 13(2) & 13(1) (d) of the Prevention of Corruption Act, 1988.

Learned senior counsel for the petitioner submits that the petitioner has falsely been implicated, whereas he has not played any role. The name of the petitioner was not mentioned in the FIR and as per the allegations the role of the petitioner is at par with co-accused S. K. Sinha,

who has been found innocent in the investigation. The allegations in the FIR pertain to credit facilities sanctioned by the bank, which were availed by the firm M/s R. S. Fastners, which was the customer of the bank. Petitioner joined his duty on promotion as Chief Manager on 10.09.2010. A proposal was submitted by the said firm for expansion-cum-modernisation of their industrial unit in the year 2010. For the purpose of proposed expansion, said firm purchased land and building over a plot measuring 6750 square yards. The sale deed of the said property indicated the consideration amount of ₹ 1.30 crores. The title of the property was found in order stating to be clear from all encumbrances. Learned counsel further submits that for examination of proposal of additional credit facilities, a techno economic viability study was got conducted through Manager (Industry) in the concerned branch. Apart from that study, two separate valuations reports were also obtained in respect of assets including added assets of the industrial unit. Said valuations were obtained from two separate approved valuers of the bank. The value of assets was ₹11.83 crores and ₹ 12.82 crores respectively. The report was submitted to the independent officer *i.e.* Manager (Industries) who was not only having technical knowledge about the industry but was also having good experience. The proposal of firm for expansion and modernisation of industrial unit was as per norms and parameters of the bank. Learned senior counsel further submits that each and every document as well as financial data was taken into consideration with all transparency, independent scrutiny and audit by the auditors. Learned senior counsel submits that

there was no deviation from the norms, policy and procedure adopted by the bank. The credit facilities were sanctioned by the Head Office vide sanction letter dated 27.01.2011, 15.05.2012 and 29.03.2013. The company was sanctioned enhancement of limit from ₹36 crores to ₹48 crores vide Head Office sanction dated 15.05.2012. The amount of loan was directly paid through draft/RTGS from the concerned branch of the bank. Learned counsel also submits that internal audits and a stock audit were also conducted through independent professionals. No material deviation was found in the conduct of business of the borrower firm. The industrial unit of the borrowers was also jointly inspected by the petitioner along with other officers of the bank and same was found to be running satisfactory as per unanimous opinion of the inspecting team. Learned senior counsel also submits that no offence is made out under Section 420 IPC. Even no allegation under Section 467 and 471 IPC has been attributed to the petitioner as all the documents were subject to scrutiny not only by petitioner but additionally and independently by Circle Office of the Bank as well as its Head Office. Those documents were also subjected to repeated collateral securities by concurrent auditors, CARD auditors, statutory auditors and Inspectors from time to time. Learned senior counsel also submits that the petitioner is retired officer of the bank and he is ready to join the Court proceedings on each and every date of hearing and also to abide by all the terms and conditions to be imposed by this Court. Even the complainant bank has not only filed a civil suit *i.e.* an Original Application before DRT for recovery of the dues by exercising its powers under

Securitization and Reconstruction of Financial Assets and Enforcement Security Interest Act, 2002, auctioned the plant and machinery of the industrial unit and has realised the funds towards part recovery of the dues. Learned senior counsel submits that recourse of recovery is pending. The petitioner is 62 years old person and is having unblemished service record in his long career. There was no default on his part while appearing before CBI during investigation. All original documents are either in the hands of CBI or with the Court. The challan in the case has already been presented on 14.10.2017. There are total 17 accused and 190 prosecution witnesses and trial is likely to take time to conclude. No purpose would be served by keeping the petitioner in custody. Learned senior counsel also submits that the petitioner undertakes that he will not directly or indirectly influence the witnesses or tamper with the evidence. He is in custody for the last more than one year and two months. In support of his arguments, learned senior counsel for the petitioner has relied upon judgment of Hon'ble the Apex Court in case *Sanjay Chandra Vs. CBI 2011(4) R.C.R. (Criminal) 898* and judgment of this Court in case *CRM-M No.19535 of 2018 titled as Giri Raj Vs. State of Haryana decided on 14.09.2018*.

Mr. S. S. Sandhu, Special Prosecutor for CBI has vehemently opposed the submissions made by learned counsel for the petitioner on the ground of seriousness of offence. He also submits that it was the responsibility of the petitioner to obtain performa invoices, final invoices from the foreign and local suppliers, in respect of machines and equipments for end use of Term Loans funds by M/s RSF. It has been found in the investigation that M/s RSF through its accused Directors were involved in

circular financial transaction in allowing the release of loan amount to bogus firms/companies in furtherance of criminal conspiracy with other accused and cheated the bank by relying upon forged documents and wrongful loss has been caused to the bank. Specific allegations are there against the petitioner and other co-accused.

Heard arguments of learned counsel for the parties and have also perused the contents of the FIR and other documents available on the file.

As per the allegations in the FIR, the borrower was not entitled to sell/dispose of stocks without consent of the bank and the sale made by the borrower is illegal. It is also the allegation that borrower has submitted false and fabricated record and played fraud with the bank for getting excessive limit and a wrongful loss has been caused to the bank.

On perusal of contents of the FIR, it reveals that there is no specific attribution and role to the petitioner. A chain of officers is there in the process. As per the case of the petitioner, a proper valuation of the property was made and there was independent scrutiny and audit by the auditors and compliance of the procedure and norms was there as per policy of the bank. It is also not disputed that the complainant has filed a civil suit *i.e.* an Original Application before DRT for recovery of the dues by exercising its powers under Securitization and Reconstruction of Financial Assets and Enforcement Security Interest Act, 2002, auctioned the plant and machinery of the industrial unit and has realised the funds from sale towards part recovery of the dues. Petitioner is retired officer of the bank, has appeared before the investigating agency and he is still ready to appear

before the Court regularly. Petitioner is in custody for the last one year and two months and challan has already been presented. The offence is triable by Magistrate. There are total 17 accused and 190 witnesses and trial may take long time to conclude. All the documents are either with the Court or with the bank and no useful purpose would be served by keeping him in custody.

In a landmark decision in *Sanjay Chandra's* case (supra, the Hon'ble Supreme Court of India crystallized the law in respect of regular bail in the following paragraphs:-

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.

23. Apart from the question of prevention being the object of refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving

him a taste of imprisonment as a lesson.

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46. We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardise the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge-sheet is already filed before the Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to allay the apprehension expressed by CBI.

47. In the view we have taken, it may not be necessary to refer and discuss other issues canvassed by the learned counsel for the parties and the case laws relied on in support of their respective contentions. We clarify that we have not expressed any opinion regarding the other legal issues canvassed by the learned counsel for the parties.

48. In the result, we order that the appellants be released on bail on their executing a bond with two solvent sureties, each in a sum of Rs. 5 lakhs to the satisfaction of the Special Judge, CBI, New Delhi on the following conditions:

(a) The appellants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him to disclose such facts to the Court or to any other authority.

(b) They shall remain present before the court on the dates fixed for hearing of the case. If they want to remain absent, then they shall take prior permission of the court and in case of unavoidable circumstances for remaining absent, they shall immediately give intimation to the appropriate court and also to the Superintendent, CBI and request that they may be permitted to be present through the counsel.

(c) They will not dispute their identity as the accused in the case.

(d) They shall surrender their passport, if any (if not already surrendered), and in case, they are not a holder of the same, they shall swear to an affidavit. If they have already surrendered before the learned Special Judge, CBI, that fact should also be supported by an affidavit.

(e) We reserve liberty to CBI to make an appropriate application for modification/recalling the order passed by us, if for any reason, the appellants violate any of the conditions imposed by this Court.”

In ***Rajat Sharma v. State of NCT of Delhi reported as 2015(3)***

JCC 1493, the Delhi High Court was pleased to observe in paragraph 7 of the report as follows:-

“7. A plain reading of the above decision makes it crystal clear that the object of bail is to secure the appearance of the accused person at his trial. It is further observed that the object of bail is neither punitive nor preventative and that deprivation of liberty must be considered a punishment unless it is required to ensure that the accused person will stand his trial when called upon. The Supreme Court further observed that when a person is punished by denial of bail in respect of any matter upon which he has not been convicted it would be contrary to the concept of personal liberty enshrined in the Constitution except in cases where there is reason to believe that he will tamper with the witnesses. To encapsulate, the Hon'ble Supreme Court has held that pre-conviction detention should not be resorted to except in cases of necessity to secure attendance at the trial or upon material that the accused will tamper with the witnesses if left at liberty.”

As per judgments of Hon'ble the Apex Court in cases ***Babba vs State of Maharashtra 2005 (11) SCC 569 and Vivek Kumar vs State of U.P. 2000(9) SCC 443***, in case, there is a delay in the trial, the bail should be granted to the accused. The Court, while granting bail, is to consider the circumstances, the factors such as the nature of accusation and severity of punishment in case of conviction and the nature of supporting evidence; reasonable apprehension of tampering with the witness or apprehension of threat to the complainant and prima facie satisfaction of the court in support of the charge are to be taken into consideration. In addition to aforementioned ingredients, the Court is to see the seriousness of the offence, likelihood of the accused fleeing from justice and tampering with

the prosecution witnesses.

It has been held by Delhi High Court in case *Anil Mahajan vs Commissioner of Customs 2000(3) RCR (Criminal) 242* that in case, the Economic offence of grave nature is there, the bail cannot be refused simply on the ground that it was a case of grave economic offence.

In *Gudikanti Narasimhulu and Others Vs. Public Prosecutor, reported in AIR 1978 Supreme Court 429*, V.R. Krishna Iyer, J., observed that "Bail or Jail?" - at the pre-trial or post-conviction stage - largely hinged on judicial discretion. The learned Judge held that personal liberty was too precious a value of our constitutional system recognised under Article 21 that the crucial power to negate it was a great trust exercisable not casually but judicially, with lively concern for the cost to the individual and the community. It was further held that deprivation of personal freedom must be founded on the most serious considerations relevant to the welfare objectives of society specified in the Constitution. The learned Judge quoted Lord Russel who had said that bail was not to be withheld as a punishment and that the requirements as to bail were merely to secure the attendance of the prisoner at trial. According to V.R. Krishna Iyer, J., the principal rule to guide release on bail should be to secure the presence of the applicant to take judgment and serve sentence in the event of the Court punishing him with imprisonment. After holding that it makes sense to assume that a man on bail has a better chance to prepare and present his case than one remanded in custody the learned Judge observed that if public justice is to be promoted mechanical detention should be demoted.

The principles laid down by the Supreme Court in ***Gurcharan Singh and Others Vs. State (Delhi Administration) AIR 1978 Supreme Court 179*** were followed by the Supreme Court in ***Miss Harsh Sawhney Vs. Union Territory reported in AIR 1978 SCC 1016*** and in ***Mohan Singh Vs. Union Territory, Chandigarh. In Mohan Singh Vs. Union Territory, Chandigarh, reported in AIR 1978 Supreme Court 1095***, even though the counsel for the State argued that the corruption of which the accused was prima facie guilty was substantial, the Supreme Court held that it was not sufficient reason to refuse bail. In paragraph 2 of the said judgment the Supreme Court held thus :-

"Counsel for the State pressed before us that the corruption of which the appellant was guilty prima facie according to the results of the investigation) was substantial. Let us assume so. Even then refusal of bail is not an indirect process of punishing an accused person before he is convicted. This is a confusion regarding the rationale of bail. This Court has explained the real basis of bail law in *Gurcharan Singh Vs. State (Delhi Administration) AIR 1978 SC 179; (1978 CrL. L.J. 129)*.

In ***Gurbaksh Singh Sibbia etc. Vs. The State of Punjab, reported in AIR 1980 Supreme Court 1632***, the Supreme Court has observed that Judges have to decide cases as they come before them, mindful of the need to keep passions and prejudices out of their decisions. The Court has also observed that in which case bail should be granted and in which case it should be refused is a matter of discretion. The court found it interesting to note that as long back as in 1924 it was held by the High Court of Calcutta in ***Nagendra Vs. King Emperor, AIR 1924 Calcutta 476***, that the object of bail was to secure the attendance of the accused at the trial, that the proper test to be applied in the solution of the question

whether bail should be granted or refused was whether it was probable that the party would appear to take his trial and that it was indisputable that bail was not to be withheld as a punishment. The Supreme Court also referred to the observation of the *Allahabad High Court in K.N. Joglekar Vs. Emperor, AIR 1931 Allahabad 504*, that Section 498 of the Old Code which corresponds to Section 439 of the New Code, conferred upon the Sessions Judge or the High Court wide powers to grant bail which were not handicapped by the restrictions in the preceding Section 497 which corresponds to the present Section 437. The Allahabad High Court had also observed that there was no hard and fast rule and no inflexible principle governing the exercise of the discretion conferred by Section 498 and that the only principle which was established was that the discretion should be exercised judiciously. The Supreme Court referred also the decision of the *Allahabad High Court in Emperor Vs. H.L. Hutchinson, AIR 1931 Allahabad 356*, wherein it was held that the principle to be deduced from the various sections in the Cr.P.C. was that grant of bail is the rule and refusal is the exception, that as a presumably innocent person, the accused person is entitled to freedom and every opportunity to look after his own case and to establish his innocence and that an accused person who enjoys freedom is in a much better position to look after his case and to properly defend himself than if he were in custody. The High Court had also held that it would be very unwise to make an attempt to lay down any particular rules which would bind the High Court, having regard to the fact that the legislature itself left the discretion of the Court unfettered. According to the

High Court, the variety of cases that may arise from time to time cannot be safely classified and it is dangerous to make an attempt to classify the cases and to say that in particular classes bail may be granted but not in other classes. The Supreme Court apparently approved the above views and observations and held (vide paragraph 30) as follows :

"It is thus clear that the question whether to grant bail or not depends for its answer upon a variety of circumstances, the cumulative effect of which must enter into the judicial verdict. Any one single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail."

In *State Vs. Jaspal Singh Gill*, reported in AIR 1984 Supreme Court 1503, the Supreme Court expressed the view that the Court before granting bail in cases involving non-bailable offences particularly where the trial has not yet commenced should take into consideration various matters such as the nature and seriousness of the offence, the character of the evidence, circumstances which are peculiar to the accused, a reasonable possibility of the presence of the accused not being required at the trial, reasonable apprehension of witnesses being tampered with, the larger interest of the public or the State and similar other considerations.

The Delhi High Court in *Anil Mahajan's* case (supra) has summarised certain points, which are as under :-

(a) Personal liberty is too precious a value of our Constitutional System recognised under Article 21 that the crucial power to negate it is a great trust exercisable not casually but judicially, with lively concern for the cost to the individual and the community. Deprivation of personal freedom must be founded on the most serious considerations relevant to the welfare objectives of society specified in the Constitution.

(b) As a presumably innocent person the accused person is entitled to freedom and every opportunity to look after his own case and to

establish his innocence. A man on bail has a better chance to prepare and present his case than one remanded in custody. An accused person who enjoys freedom is in a much better position to look after his case and properly defend himself than if he were in custody. Hence grant of bail is the rule and refusal is the exception.

(c) The object of bail is to secure the attendance of the accused at the trial. The principal rule to guide release on bail should be to secure the presence of the applicant to take judgment and serve sentence in the event of the Court punishing him with imprisonment.

(d) Bail is not to be withheld as a punishment. Even assuming that the accused is *prima facie* guilty of a grave offence, bail cannot be refused in an indirect process of punishing the accused person before he is convicted.

(e) Judges have to consider applications for bail keeping passions and prejudices out of their decisions.

(f) In which case bail should be granted and in which case it should be refused is a matter of discretion subject only to the restrictions contained in Section 437(1) of the Criminal Procedure Code. But the said discretion should be exercised judiciously.

(g) The powers of the Court of Session or the High Court to grant bail under Section 439(1) of Criminal Procedure Code are very wide and unrestricted. The restrictions mentioned in Section 437(1) do not apply to the special powers of the High Court or the Court of Session to grant bail under Section 439(1). Unlike under Section 437(1), there is no ban imposed under Section 439(1) against granting of bail by the High Court or the Court of Session to persons accused of an offence punishable with death or imprisonment for life. However while considering an application for bail under Section 439(1), the High Court or the Court of Sessions will have to exercise its judicial discretion also bearing in mind, among other things, the rationale behind the ban imposed under Section 437(1) against granting bail to persons accused of offences punishable with death or imprisonment for life.

(h) There is no hard and fast rule and no inflexible principle governing the exercise of such discretion by the Courts. There cannot be an inexorable formula in the matter of granting bail. The facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. The answer to the question whether to grant bail or not depends upon a variety of circumstances, the cumulative effect of which must enter into the judicial verdict. Any one single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail.

(i) While exercising the discretion to grant or refuse bail the Court will have to take into account various considerations like the nature and seriousness of the offence; the circumstances in which the offence was committed; the character of the evidence; the circumstances which are peculiar to the accused; a reasonable apprehension of witnesses being influenced and evidence being tampered with; the larger interest of the public or the State; the position and status of the accused with reference to the victim and the witness; the likelihood of the accused fleeing from justice; the likelihood of the accused repeating the offence; the history of the case as well as the stage of investigation etc. In view of so many variable factors the considerations which should weigh with the Court cannot be Exhaustively set out. However, the two paramount considerations are: (i) the likelihood of the accused fleeing from justice and (ii) the likelihood of the accused tampering with prosecution evidence. These two considerations in fact relate to ensuring a fair trial of the case in a Court of justice and hence it is essential that due and proper weight should be bestowed on these two factors.

(j) While exercising the power under Section 437 of the Criminal Procedure Code in cases involving non-bailable offences except cases relating to offences punishable with death or imprisonment for life, judicial discretion would always be exercised by the Court in favour of granting bail subject to sub-section 3 of Section 437 with regard to imposition of conditions, if necessary. Unless exceptional circumstances are brought to the notice of the Court which might defeat proper investigation and a fair trial, the Court will not decline to grant bail to a person who is not accused of an offence punishable with death or imprisonment for life.

(k) If investigation has not been completed and if the release of the accused on bail is likely to hamper the investigation, bail can be refused in order to ensure a proper and fair investigation.

(l) If there are sufficient reasons to have a reasonable apprehension that the accused will flee from justice or will tamper with prosecution evidence he can be refused bail in order to ensure a fair trial of the case.

(m) The Court may refuse bail if there are sufficient reasons to apprehend that the accused will repeat a serious offence if he is released on bail.

(n) For the purpose of granting or refusing bail there is no classification of the offences except the ban under Section 437(1) of the Criminal Procedure Code against grant of bail in the case of offences punishable with death or life imprisonment. Hence there is no statutory support or justification for classifying offences into

different categories such as economic offences and for refusing bail on the ground that the offence involved belongs to a particular category. When the Court has been granted discretion in the matter of granting bail and when there is no statute prescribing a special treatment in the case of a particular offence the Court cannot classify the cases and say that in particular classes bail may be granted but not in others. Not only in the case of economic offences but also in the case of other offences the Court will have to consider the larger interest of the public or the State. Hence only the considerations which should normally weigh with the Court in the case of other non-bailable offences should apply in the case of economic offences also. It cannot be said that bail should invariably be refused in cases involving serious economic offences.

(o) Law does not authorise or permit any discrimination between a foreign National and an Indian National in the matter of granting bail. What is permissible is that, considering the facts and circumstances of each case, the Court can impose different conditions which are necessary to ensure that the accused will be available for facing trial. It cannot be said that an accused will not be granted bail because he is a foreign national.

It has also been held in various judgment of Hon'ble the Apex Court as well as of this Court that criminal prosecution is not a proceeding for recovery of the dues of the investors but is meant for punishing the guilty. In case of economic offences, the object of criminal prosecution is to protect the investors and help them in recovery of the money. It can be a presumption but the detention of accused in the jail would not aid the recovery. It has also been held that the purpose is not to recover the amount but to punish the accused persons.

Hon'ble the Apex Court in *Sanjay Chandra's* case (supra) has held in para Nos.27 and 28 as under :-

“27. In `Bihar Fodder Scam', this Court, taking into consideration the seriousness of the charges alleged and the maximum sentence of imprisonment that could be imposed including the fact that the appellants were in jail for a period of more than six months as on the date of passing of the order, was of the view that the further detention of the appellants as pre-trial prisoners would not

serve any purpose.

28. We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardize the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge sheet is already filed before the Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to allay the apprehension expressed by CBI.”

In ***Dipak Shubhashchandra Mehta's*** case (supra), Hon'ble the Apex Court while relying upon the judgment of ***Sanjay Chandra's*** case (supra) allowed bail in case involving economic offences of huge magnitude. This Court in ***Anil Kumar Vs. State of Punjab, 2013(3) RCR (Criminal) 854*** scanned various authorities on the issue and held in favour of accused for release on bail.

No doubt while granting bail the Court has to keep in mind the nature of accusations, the nature of evidence in support thereof, severity of the punishment which conviction will entail, the character of the accused and facts and circumstances of the case. It is also one of the factors while considering the bail that there is a reasonable possibility of securing the presence of the accused during trial and reasonable apprehension of the witnesses being tampered with. The larger interest of the public/State and some other similar considerations are also there. However, for the purpose of granting bail, the Legislature has used the words “reasonable grounds for believing” instead of “the evidence”, which means the Court while dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the accused and the prosecution will be able to produce *prima*

facie evidence in support of the charges. At this stage, it is not expected to have the evidence establishing the guilt of the accused beyond reasonable doubt. It has been held in various judgments of this Court as well as Hon'ble the Apex Court that in economic offence, the view point is to be taken differently with different approach in case of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be taken seriously and considered as grave offence affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country as has been held by Hon'ble Apex Court in judgment of case ***Nimmagadda Prasad Vs. Central Bureau of Investigation AIR 2013 SCC 2821.***

It is a settled preposition of law that while granting bail though the Court may impose reasonable conditions as it thinks fit but the object of putting conditions is to avoid the possibility of the person hampering investigation. The discretion of the Court while putting condition is to be in exercise of judicial discretion.

Accordingly, without commenting anything on the merits of the case as allegations are matter of evidence to be tested by the trial Court during the course of trial and by considering that the petitioner is in custody for the last more than one year and two months and also the fact that challan has been presented before the trial Court, the offences are triable by Magistrate and also by considering the ratio of judgment of Hon'ble the Apex Court in case ***Manoranjana Sinh alias Gupta Vs. Central Bureau of Investigation 2017 (1) R.C.R. (Criminal) 1025***, wherein the concession of

bail has been granted to the accused persons who were involved in a big scam, the present petition is allowed and the petitioner is directed to be released on regular bail to the satisfaction of the trial Court subject to following conditions :-

- (1) The petitioner shall furnish a personal bond in the sum of ₹5 lacs (Rupees Five Lacs) with the sureties in the like amount to the satisfaction of the trial Court.
- (2) The petitioner shall surrender his passport, if already not seized, any hold by him, before the trial Court.
- (3) He shall not leave country without permission of Court.
- (4) He shall not tamper with the evidence or do any act which will create a reasonable ground to assume that the petitioner is trying to create hurdle in the investigation or trial of the case which will entail cancellation of bail.
- (5) Any other condition which may be imposed by the trial Court.

24.09.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No