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

\+ BAIL APPLN. 320/2018

RAJEEV SINGH KUSHWAHA ..... Petitioner

Through: Mr. Vikas Pahwa, Sr. Adv. with Mr. Rajiv Mohan, Ms. Aashita Khanna, Mr. Sumer Boparai and Mr. Tushar Agarwal, Advs.

versus

ASSISTANT DIRECTOR (PMLA)DIRECTORATE OF ENFORCEMENT ..... Respondent

Through: Mr. Ajay Digpaul, CGSC.

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

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

% **08.10.2018**

Learned senior counsel for the petitioner submits that petitioner is in custody for the last 20 months. Co-accused Shobit Sinha and Vineet Gupta have already been granted bail. Co-accused Mohit Garg was not even arrested. Complaint under Section 45 of the Prevention of Money Laundering Act, 2002 (for short, the PMLA) has already been filed against the petitioner besides other co-accused persons on the allegations that they had committed offences under Sections 3 and 4 of the PMLA. Learned senior counsel further submits that in the scheduled offences, that is, FIR No. 416/2016 under Sections 420/120B IPC wherein subsequently offences under Sections 409/419/467/468/471 IPC and Sections 7,13(i)(d) of the

Prevention of Corruption Act, 1988 were added, investigations are not complete, inasmuch as, charge-sheet has not been filed. It is further submitted that Section 44 of the PMLA envisages that trial of a complaint under the PMLA has to take place along with the charge-sheet of scheduled offences. However, in the present case charge-sheet has not been filed and as to when the trial will commence is also not known. The maximum sentence provided for the offence allegedly committed by the petitioner is 7 years. There is no documentary evidence against the petitioner except his statement under Section 15 of the PMLA, CDRs and CCTV footage. It is submitted that merely because petitioner had been visiting the bank would not mean that he was the main kingpin, as alleged by the respondent. Learned senior counsel has placed reliance on Raj Kumar Goel Vs. Directorate of Enforcement 2018 SCC OnLine Del 8873, Virender Jain Vs. Enforcement Directorate Delhi Zonal Office 2018 SCC OnLine Del 6762 and Anup Prakash Garg Vs. Enforcement Directorate 2018 SCC OnLine Del 10287.

Learned Central Govt. Standing Counsel for the respondent has opposed the grant of bail to the petitioner. It is contended that on a specific information received by the police station Kashmiri Gate, co-accused

Devender Kumar Jha, Mohit Garg and Raj Kumar Sharma, who were travelling in Honda City car bearing no. DL-2FV-0036, were intercepted. From their possession, ₹3.70 crores were recovered in the currency notes of old denomination of ₹1,000/- each. Accordingly, FIR No. 416/2016 under Sections 420/120B IPC was registered at police station Kashmiri Gate on 29.11.2016. In the view the said FIR, ECIR No. 11/2016 was registered by the Enforcement Directorate on 30.11.2016. During the investigation, it was revealed that petitioner was operating various front firms/companies. He used the bank accounts of said firms/companies to convert the demonetised currency into the new monetised currency on commission basis. Petitioner used to take 15% commission. Petitioner had deposited around ₹36.26 crores between 08.11.2016 and 22.11.2016 in the accounts of these shell companies/firms controlled by him.

Learned senior counsel for the petitioner submits that no document could be collected by the respondent, during the investigation, to show that petitioner was partner or director in any of these firms/companies. No account opening form could be collected to show that petitioner had opened any of these accounts, inasmuch as, no deposit slips could be recovered to show that petitioner had deposited any amount in these bank accounts.

Merely because petitioner was in touch with the co-accused and had visited the banks will not be sufficient to connect him with the alleged offences. It is prayed that petitioner may be admitted to bail.

Keeping in mind the totality of the facts and circumstance of this case more particular, that petitioner is in custody for the past 20 months, charge-sheet has yet not been filed in the scheduled offences and the maximum sentence, as envisaged for the offences alleged against the petitioner, is 7 years, I find it to be a fit case to admit the petitioner on bail.

For the foregoing reasons, the petitioner is admitted to bail subject to his furnishing a personal bond in the sum of ₹1 lac with two sureties in the like amount to the satisfaction of the trial court. Petitioner shall deposit his passport with the trial court. Petitioner shall not leave the country without prior permission of the trial court.

Bail application is disposed of in the above terms.

Dasti.

A.K. PATHAK, J.

OCTOBER 08, 2018
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