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

% Reserved on: 26th April, 2018
Decided on: 2nd May, 2018

\+ **BAIL APPLN. 477/2018**

RAJESH JAIN ..... Petitioner

Represented by: Mr.Sudhir Nandrajog and Mr.Manoj Ohri, Sr. Advocates with Mr. Akhil Mital, Mr. L.N. Rao, Mr. Nawab Singh Jaglan, Mr. Abhimanyu Singh, Mr. Rajiv Ranjan Raj, Mr. Sanjeev Arora, Mr. Akshay Sachdeva and Ms. Archana Maheshwari, Advocates.

versus

STATE (THR. LD.APP) ..... Respondent

Represented by: Mr. Rahul Mehra, Standing Counsel and Ms. Rajni Gupta, APP for the State, Mr. Jamal Akhtar and Mr. Chaitanya Gosain, Advocates with ACP Ishwar Singh and Inspector Ishwar Singh, PS Crime Branch.

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA

1. By the present application, petitioner Rajesh Jain seeks regular bail in FIR No. 205/2016 registered at PS Crime Branch for offences punishable under Sections 406/409/420/468/471/188/120B IPC. Sections 467/109/

201/34 IPC and Section 7/8/11/12/13 of Prevention of Corruption Act, 1988 were also added during the course of investigation.

2. Brief conspectus of facts as per FIR No. 205/2016 are that on 8th November, 2016 pursuant to the demonization of one thousand and five hundred rupees currency notes announced by the Government of India, Raj Kumar Goel conspired with Ashish Kumar, Bank Manager of Kotak Mahindra Bank, one Chartered Accountant and one mediator who used to bring money to the bank to earn huge profits by converting black money in the form of old demonetized currency into new currency notes. The alleged mediator was offered commission on all such transactions. Raj Kumar Goel, having bank accounts in Kotak Mahindra Bank, Naya Bazar Branch, deposited old currency notes in Kotak Mahindra Bank, Connaught Place Branch pursuant to the instructions of the chartered accountant and Ashish Kumar. Thereafter, the bank manager issued demand drafts in the name of Sunil Kumar, Seema Bai, Dinesh Kumar and others against the cash deposited. It was further alleged that various bank accounts were opened in the name of various companies on the basis of forged and fabricated documents and approximately ₹25 crores had been deposited by the accused persons in these companies after demonetization. Thus, the new currency, which was to be delivered to the general public in regulated manner, has been misappropriated by the accused persons for illegal monetary gains.

3. On 24th June, 2017, the main charge sheet was filed against six accused persons namely Rohit Tandon, Raj Kumar Goel, Ashish Kumar, Kamal Jain, Dinesh Bhola and Ramesh Bhola. Thereafter, the first

supplementary chargesheet was filed against Yogesh Mittal on 13th October, 2017. Petitioner Rajesh Jain was arrested on 28th November, 2017 and after the completion of investigation qua the petitioner, secondary supplementary charge sheet was filed on 25th January, 2018 under Sections 420/188/109/120B/34 IPC and Section 12 of Prevention of Corruption Act, 1988 against the petitioner.

4. As per the second supplementary charge sheet, petitioner Rajesh Jain is the proprietor of M/s. Jai Jinendra Sales Corporation and his son Prateek Jain proprietor of Shrinivas Sales Corporation. As per the investigation even the work of Shrinivas Sales Corporation was looked after by Rajesh Jain. A major amount of cash in the form of demonetized currency was deposited in the accounts of Yashoda Sales, P.S. Sales, Padam Trading Company and P.K. Enterprises during demonetization period and an amount to the tune of ₹3,95,00,000/- was transferred to the account of M/s. Jai Jinendra Sales Corporation between 15th November, 2016 and 5th December, 2016 and ₹4,13,63,180/- was transferred to Shrinivas Sales Corporation between 15th November, 2016 and 12th December, 2016.

5. It was further alleged that the money so received in the accounts of M/s. Jai Jinendra Sales Corporation and Shrinivas Sales Corporation was further transferred in the accounts of Harsh International Industries Pvt. Ltd. and H. B. Manufacturing Industries Pvt. Ltd. Statements of Govind Babu, owner of Harsh International Industries Pvt. Ltd. and Naveen Somani, Director of H.B. Manufacturing Industries Pvt. Ltd were recorded wherein they confirmed their transactions with M/s. Jai Jinendra Sales Corporation and Shrinivas Sales Corporation and that the agreements with aforesaid firms were signed through Yogesh Mittal.

6. Learned counsel for the petitioner contends that the prosecution has not arrested the main accused Rohit Tandon in the present ECIR. Further Kamal Jain, CA of Rohit Tandon and Dinesh Bhola, PA of Rohit Tandon both have been charge sheeted without arrest. Even as per the chart handed over by the investigating agency the petitioner has no role in the initial conspiracy of depositing Rohit Tandon's demonetized currency in the accounts of Yogesh Mittal and his associates nor is there any allegation that the petitioner is the beneficiary of the said transaction. 68 demand drafts were recovered from the possession of Kamal Jain, CA of Rohit Tandon who has been charge sheeted without arrest. Further since the demand drafts have not been encashed the money is still lying with the bank. Petitioner is also not connected in any conspiracy with Ashish Kumar, Manager of Kotak Mahindra Bank. The only allegation in the charge sheet against the petitioner is that 35% commission amount out of which 10% was to be retained by Yogesh Mittal, was deposited in the pre existing firms of Yogesh Mittal namely Yashoda Sales, P.S. Sales, M.S. Enterprises, Nikhil Enterprises, K.S. Traders etc. and from there a sum of ₹3.95 crores has been transferred to the account of M/s Jai Jinendra Sales Corporation, firm of Prateek Jain, son of the petitioner and a sum of ₹4,13,63,180/- to M/s Shrinivas Sales Corporation, firm of the petitioner, which was further transferred to the accounts of Govind Babu and Naveen Somani. Thus the petitioner is neither the beneficiary of the transaction nor money has been utilized for his personal benefits and the liability, if any, was of Yogesh Mittal and merely the two accounts of the firms M/s Shrinivas Sales Corporation and M/s Jai Jinendra Sales Corporation which was being run by the petitioner were utilized to transfer money to Govind Babu and Naveen

Somani who have been made witnesses and not as accused. The allegations at best against the petitioner in para 16.14 of the charge sheet is of withdrawal of ₹2 lakhs in cash. The petitioner's role surfaces only in the second supplementary charge sheet. The entire evidence is documentary in nature and thus cannot be tampered with. The petitioner has no influence on the witnesses and no recoveries are required to be made from the petitioner. No case for offence under Section 12 of the PC Act is made out against the petitioner as the petitioner has no nexus with Ashish Kumar, the public servant. Further there is no allegation that the petitioner forged or fabricated any document and thus the case at best against the petitioner is a conspirator for offence punishable under Section 420 IPC. Petitioner is in custody since 27th November, 2017 and is no more required for investigation. The entire evidence being documentary in nature, he be released on bail.

7. Learned Standing Counsel for the State vehemently opposing the bail application contends that the petitioner was a part of larger conspiracy in converting the old demonetized currency of Rohit Tandon to legal tender which money was deposited in various dummy accounts of Yogesh Mittal and Raj Kumar Goel out of which approximately ₹8 crores was transferred to the two firms of Rajesh Jain through RTGS/NEFT from the accounts of firms namely Yashoda Sales and P.S. Sales of Yogesh Mittal. The money was thereafter transferred to the accounts of Govind Babu and Naveen Somani to fulfill the liabilities of the firms. To explain the transactions learned Standing Counsel for the State has handed over a flow chart as under:

Rohit Tadon
(RT)

Kamal Jain
(CA of RT)

Dinesh Bhola
(PA of RT)

Ashish Kumar (Bank Manager Kotak Mahindra Bank, Ambadeep Branch)

Yogesh Mittal,

Rajesh Jain

Raj Kumar Goel (RKG)

1. RT had a meeting with Kamal Jain and Dinesh Bhola for conversion of his demonetized currency, who contacted Ashish Kumar.
2. Ashish Kumar organized a meeting with RKG who presented himself on behalf of Yogesh Mittal.
3. The deal was finalized at a commission of 35%.
4. 51 crores were given by Dinesh Bhola on behalf of RT for exchange which included 38 crores for DDs and 13 crores as commission.
5. The demonetized currency was deposited in accounts of firms of RKG and Yogesh Mittal and DDs were issued.
6. The commission amount was deposited in dummy firms of Yogesh Mittal.
7. 68DDswere recovered from the possession of Kamal Jain.

1. Earlier he was Branch Manager at GK Branch, where RT was maintaining his accounts and thus, known to RT, Kamal Jain and Dinesh Bhola.
2. Yogesh Mittal is having accounts in Ambadeep Branch and thus, known to Ashish Kumar.
3. Yogesh Mittal and RKG are in same type of business and were known to each other.

1. The commission amount was deposited in dummy firms of Yogesh Mittal namely a) Yashoda Sales, b) PS Sales, c) MS Enterprises, d) Nikhil Enterprises, e) KS Traders, etc.
2. About rupees 8 crores have been transferred to the account of firms of Rajesh Jain namely Srinivas Sales Corporation and his son Prateek Jain namely Jai Jinendra Sales Corporation through RTGS/NEFT from the accounts of firms namely Yashoda Sales and PS Sales.
3. The money received in accounts of above firms has been utilized to fulfil the liabilities of the firm.

1. RKG was maintaining 8 accounts in the name of dummy firms at Kotak Mahindra Bank Naya Bazar Branch and 4 accounts in ICICI Bank, Fatehpuri Branch.

2. He deposited demonetized currency in his accounts in home branch from 10.11.2016 to13.11.2016 and thereafter at Ambadeep Branch form 15.11.16 to 19.11.16.

3. The money was converted in to demand drafts in the name of Sunil Kumar and Dinesh Kumar.

4. He also deposited the commission amount of Ashish Kumar in his accounts and got issued DDs in the name of Seema Bai, Madan Kumar, etc.

8. FIR No.205/2016 registered at PS Crime Branch relates to collections of ₹38 crores from Dinesh Bhola, employee of Rohit Tandon which was deposited in the various accounts of Yogesh Mittal and Raj Kumar Goel wherein 35% commission was charged out of which 10% commission was of Ashish Kumar, 10% of Yogesh Mittal, 10% of Raj Kumar Goel, 4% of the remaining persons and 1% for miscellaneous expenses. Thus, it is the case of prosecution that 65% of ₹38 crores were deposited in the accounts of the different firms of Yogesh Mittal and Raj Kumar Goel and thereafter demand drafts were prepared in fictitious names. Further, 35% of ₹38 crores of demonetized currency i.e. approximately ₹13.30 crores as commission was deposited in various accounts of Yogesh Mittal and Raj Kumar Goel and their associates. Role of the petitioner is not concerned with the balance 65% amount which was deposited in the various accounts of Yogesh Mittal and Raj Kumar Goel and their associates, whereafter drafts were got prepared in the first name of various employees of Rohit Tandon to be encashed later on. Role assigned to the petitioner is confined to the amount of approximately ₹8 crores in the two firms of Rajesh Jain, that is, Shrivinas Sales Corporation and Jai Jinendra Sales received from Yashoda Sales and P.S. Sales which was then transferred to M/s Harsh International Khaini Pvt. Ltd. of Govind Babu and M/s H.B.Manufacturing Industries Pvt. Ltd. of Naveen Somani. In this regard it would be relevant to note the statements of Govind Babu and Naveen Somani recorded under Section 161 Cr.P.C.

9. As per Govind Babu, he was doing the business of tobacco and was running the company Harsh International Pvt. Ltd. where he had 60% shareholding. In March/April, 2010 he met Yogesh Mittal in his office who sought the dealership of his product. For some time he supplied material to

Yogesh Mittal without an agreement however in April, 2010 first agreement was entered into between the firms Star Contracts Pvt. Ltd. of Yogesh Mittal with Harsh International Khaini Pvt.Ltd. wherein Yogesh Mittal was the C& F agency. This business continued till September, 2013. In February, 2011 Yogesh Mittal started his business with another firm Paras Trading Company. Later they entered into an agreement with Inderprashtha Trading Pvt. Ltd. whose proprietor was Mohd.Naushad but the entire transaction was done by Yogesh Mittal. He has further given the names of various firms of Yogesh Mittal with which he did business, that is, Akul Exports Pvt., Virukti Enterprises, Jai Jinendra Enterprises, Shrinivas Sales Corporation. He stated that though the proprietor of these firms were someone else but he was actually doing the business with Yogesh Mittal and that he would produce the ledger accounts of all his businesses with Yogesh Mittal in the year 2016-2017 in the various firms namely Shrinivas Sales Corporation, Jai Jinendra Sales Corporation, GSK Enterprise, Yashoda Marketing, Sujay Marketing Company with his company Harsh International Pvt. Ltd.

10. Even Naveen Somani stated that since June, 2009 his firm H.B. MFG Industries Ltd. was doing business with Yogesh Mittal initially in the name of the firm Kanak Traders, then Akula Marketing Company, thereafter Aman Traders followed by Ratnakar Enterprises, Vistar Exports Pvt. Ltd., Sujay Marketing Company, Shrinivas Sales Corporation, Yanti Marketing and Jai Jinendra Corporation. Though these firms were in the name of some other individuals however, the business was conducted by Yogesh Mittal.

11. From the statements of these two witnesses of the prosecution, it is evident that 10% commission of Yogesh Mittal was deposited in the various firms from where approximately ₹8 crores was transferred to the two firms

of petitioner namely Shrinivas Enterprises and Jai Jinendra Sales Corporation over to the firms/companies of Govind Babu and Naveen Somani in discharge of the liability of Yogesh Mittal. Petitioner, if at all is a beneficiary for a sum of ₹2 lakhs the petitioner has no role in the deposit of cash in the accounts of Raj Kumar Goel or Yogesh Mittal from which demand drafts were made which were recovered from Kamal Jain, CA of Rohit Tandon. As noted above Rohit Tandon has not been arrested in this FIR and charge sheet in the above noted FIR was filed against Rohit Tandon, Kamal Jain and Dinesh Bhola, the main accused without arrest and on appearance before the Court, bail was granted to them. Further Yogesh Mittal has also been granted bail though for technical reasons. Evidence is documentary in nature and the trial is likely to take some time. Hence, this Court deems it fit to grant bail to the petitioner. It is, therefore, directed that the petitioner be released on bail on his furnishing a personal bond in the sum of ₹1 lakhs with one surety of the like amount to the satisfaction of the learned Trial Court/CMM further subject to the condition that the petitioner will not leave the country without prior permission of the Court concerned and in case of change of residential address the same will be intimated to the Court concerned.

12. Petition is disposed of.

13. Order dasti.

(MUKTA GUPTA)
JUDGE

MAY 02, 2018
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