

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

% **Reserved on : 10.02.2020**
Pronounced on : 27.02.2020

+ **BAIL APPLN. 242/2020**

ANUP JOSHI

..... Petitioner

Through: Mr. Sudhir Nandrajog, Sr. Adv. with
Mr. Shri Singh and Ms. Maneka
Khanna, Advs.

versus

CBI

..... Respondent

Through: Mr. Anupam S. Sharma, SPP with
Mr. Prakarsh Airan, Adv.

CORAM:
HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

1. This is an application filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case RC-DAI-2019-A-0042, dated 29.12.2019, under sections 7 & 7-A of the Prevention of Corruption Act, 1988 (amended) and section 120-B IPC, PS CBI, ACB, New Delhi.

2. Briefly stated the facts of the case are that the present FIR was registered on the basis of complaint, filed by one Sh. Sudhir Gulati, (complainant) dated. 27.12.2019 alleging therein that he is running business of export of readymade garments, leather items etc. under the name

and style of M/s Anmol Tradex Pvt. Ltd. and M/s Bal Gopal Importers and Exporters Pvt. Ltd., at East Patel Nagar, New Delhi.

3. The complainant further alleged that Anoop Joshi (present petitioner) was his ex-Clearing House Agency (CHA) based at New Delhi. In June 2019, petitioner met complainant and informed him that DRI, Ludhiana raided premises of M/s Sadagati Clearing Agency Pvt. Ltd. and seized records belonging to 300 business firms, to which said M/s Sadagati was providing clearing house services. Said 300 business firms of which record has been seized by DRI included (Complainant's) firms i.e. M/s Anmol Tradex Pvt. Ltd. and M/s Bal Gopal Importers. Record of both of these firms was also under compilation by DRI, Ludhiana. Further, there was some complaint with ADG, DRI, Ludhiana, in which complainant had been shown as business partner of one Sh. Vikas Chowdhary. Action could be taken against him under COFEPOSA, which could lead search of his premises and also arrest.

4. It is further alleged in the complaint by the complainant that petitioner alongwith Rajesh Dhanda met him again in July 2019 and told that DRI, Ludhiana was calling for business record / transactions relating to his firm. Rajesh Dhanda told that matter could be settled with DRI, if the complainant was ready to pay some bribe for Mr. Chander Shekhar, ADG, DRI, Ludhiana. Both the said persons i.e. Anoop Joshi (present petitioner) and Rajesh Dhanda met the complainant again in August 2019 and demanded Rs. 3 Crores, as

bribe for Mr. Chander Shekhar and the matter was settled for Rs. 2.75 Crores.

5. After verification of facts, CBI registered FIR on 29.12.2019 for offences punishable u/s 120B IPC and section 7A of The Prevention of Corruption Act (amended in 2018) against the petitioner and co-accused Rajesh Dhanda.

6. Pretrap proceedings was started by the CBI and on 30.12.2019, Complainant was made to give a telephonic call to Anoop Joshi (petitioner). The latter informed that Rajesh Dhanda was not coming to Delhi on 30.12.2019, as disclosed earlier, but will reach on 31.12.2019. The meeting was scheduled at 12:30 hrs. at hotel JW Marriot, New Delhi. A memo was recorded to that effect.

7. On 31.12.2019, CBI team again assembled in the presence of independent witnesses. Complainant produced GC Notes of Rs. 25 lakhs, which were treated with phenolphthalein powder. The trap proceedings were carried out and were recorded in the handing over memo dated 31.12.2019. CBI team alongwith independent witnesses proceeded to hotel JW Marriot, New Delhi. Complainant met petitioner / accused Anoop Joshi and Rajesh Dhanda in the lobby of said hotel. On being demanded by petitioner, he handed over tainted bribe amount of Rs. 25 lakhs to the petitioner. Petitioner received that amount in his hands and kept the same on table placed between sofas. On receipt of pre-decided signal, CBI team rushed and caught both of accused red handed. Hands of petitioner were washed

in freshly prepared solution of sodium chloride & water and while doing so, the colourless solution turned pink. Hand wash solution was kept in fresh glass bottle and sealed with seal of CBI in the presence of independent witnesses. The bribe money was also seized from table. On being questioned, petitioner Anoop Joshi and co-accused admitted to have demanded and obtained bribe money for co-accused Chander Shekhar, from the complainant.

8. It is submitted by the Ld. Sr. Counsel for the petitioner that the petitioner is in J.C. since 31.12.2019. He further argued that the bribe money of Rs. 25 Lakh has already been recovered and voice samples of co-accused Rajesh Dhanda and petitioner have also been obtained. It is further argued that the petitioner is seeking parity with co-accused who have already been granted bail.

9. It is argued by the Ld. SPP for CBI that the petitioner is the main accused in the case. He further argued that petitioner was clearing house agent of the complainant and after the raid on M/s Sadagati Clearing Services Pvt. Ltd. where around three hundred and twenty files of various companies were recovered, which included files of two companies belonging to the complainant. He further argued that it was the petitioner who threatened the complainant that the record of his firms was under compilation by DRI and there was some complaint with Additional Director General, DRI Ludhiana which would lead to action against complainant under COFEPOSA resulting in search at his premises and his arrest. He further argued that petitioner thereafter introduced complainant with co-

accused Rajesh Dhanda and money was demanded from the complainant who was thereafter threatened at Hotel Imperial Delhi and later on 01.08.2019 demand of Rs. 3 crores was made from him and in November 2019, petitioner again reiterated the demand of Rs. 3 crores which was later on settled for Rs. 2.75 crores.

10. He further argued that petitioner thereafter continued to harass and threaten the complainant on Whatsapp and thereafter met him at Le Meridian Hotel where also the demand and threat was extended. He further argued that the entire conversation between the complainant and petitioner has been recorded and the Whatsapp chat between them has also been collected. Later on it is the petitioner who was caught accepting the bribe amount of Rs. 25 lakhs.

11. He further argued that the petitioner is not entitled to parity with co-accused Rajesh Dhanda and Chander Shekhar for grant of bail as there was no recorded conversation between co-accused Rajesh Dhanda and the complainant and as per the admitted case of respondent the part bribe money offered by the complainant was received by petitioner and the money was not touched by co-accused Rajesh Dhanda. He further argued that even the case of the petitioner is distinguished from the co-accused Chander Shekhar as he did not accept the bribe amount which was received by the petitioner and the said observations have also been made by the Court below while granting bail to co-accused Rajesh Dhanda and Chander Shekhar.

12. The main thrust of the argument of the Ld. Sr. counsel for the petitioner is that two co-accused namely Rajesh Dhanda and Chander Shekhar have been admitted to bail, so the petitioner is also entitled to bail on the ground of parity with the co-accused.

13. As far as the question of parity is concerned, in my opinion, the petitioner is not entitled to parity with co-accused who have been released on bail. The petitioner in this case was dealing with the records of the firms of the complainant and he has asked for the bribe for the co-accused from the complainant alleging that the records of his firm has been seized by DRI alongwith the record of M/s Sadagati Clearing Agency Pvt, Ltd. It is alleged against the petitioner that he told the complainant that the records of 300 business firms which has been seized by the DRI included the firms i.e. M/s Anmol Tradex Pvt. Ltd. and M/s Bal Gopal Importers, both firms of the complainant and record of these firms were under compilation by DRI, Ludhiana. It is also alleged against the petitioner that he has even told the complainant that action under COFEPOSA could be taken against him which can lead to search of his premises and to his arrest.

14. In order to save the complainant from the DRI, the petitioner alongwith his co-accused demanded Rs. 3 Crores initially as bribe for one of co-accused and the matter was settled for 2.75 Crores out of which the complainant gave Rs. 25 Lakhs to the petitioner and he was caught red handed and his hand wash was taken and the bribe money of Rs. 25 Lakhs was seized. Therefore, in these circumstances, it cannot be said that the case of the petitioner is on the same footing as that of his co-accused.

15. The investigation reveals that the petitioner is the man who has created fear in the mind of the complainant that he would be involved in cases with DRI and COFEPOSA and after creating this terror in the mind of the complainant, the bribe amount was settled of which a sum of Rs. 25 Lakhs have been recovered from the petitioner. It is the petitioner who was the ex-clearing agent of the complainant and he is the man who had made the complainant to believe that his firms would also be under the DRI investigation and laid the foundation of this entire case. He introduced the complainant with the co-accused Rajesh Dhanda who then demanded Rs. 3 Crores as bribe. During the investigation the conversation between the complainant and the petitioner has been collected which according to the prosecution reveals that he harassed and threatened the complainant to accede to their demand in order to save himself from the investigation of DRI. The petitioner is the master mind of the case as he was well aware about the business of the complainant being his ex-clearing house agent.

16. In these facts and circumstances, the allegations against the petitioner are grave and serious in nature and he is not entitled to parity with his co-accused. The bail application is, therefore, dismissed.

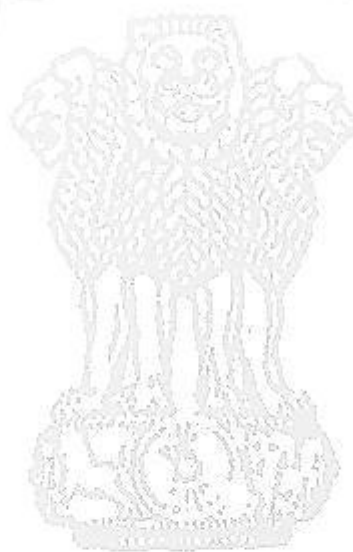
17. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of the case.

RAJNISH BHATNAGAR, J

FEBRUARY 27, 2020

Sumant

HIGH COURT OF DELHI



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