

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

Date of decision: 14.09.2020

IN THE MATTER OF:

+ BAIL APPLN. 2442/2020

JAYANT KUMAR JAIN

..... Petitioner

Through: Mr. Mukul Gupta and Mr. Vikas
Pahwa, Sr. Advocates with Mr. Sunil
K Mittal, Mr. Vikas Sethi, Mr. Anshul
Mittal, Mr. Syed Arham Masud and
Ms. Raavi Sharma, Advocates

Versus

THE STATE

..... Respondent

Through: Ms. Radhika Kolluru, APP for State.
Mr. Rajnish Gaur, Advocate for
complainant

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

(VIA VIDEO CONFERENCING)

MANOJ KUMAR OHRI, J. (ORAL)

1. The present application has been filed under Section 439 Cr.P.C. read with Section 482 Cr.P.C. seeking regular bail in FIR No. 128/2019 registered under Sections 409/420/467/468/471/120B IPC at P.S. Economic Offences Wing, New Delhi.
2. Mr. Mukul Gupta, learned Senior Counsel for the petitioner submitted that the present case arises out of the commercial transaction entered into between the complainant, LMJ Logistics Ltd. (now known as Sri Aranath

Logistics Ltd. & hereinafter referred to as ‘the SALL’) and the group’s flagship company namely LMJ International Ltd. (now known as Munisuvrata Agri International Ltd. & hereinafter referred to as ‘the LMJIL’) in the year 2017, in pursuance to which the complainant agreed to sanction Rs. 25 crores towards the “Working Capital Demand Loan” vide Sanction letter dated 12.10.2017. Besides the above, a Facility Agreement dated 17.10.2017 and a Tripartite Off-take Agreement were also entered into between the complainant, the SALL and the LMJIL. While the SALL was in the business of commodity trading, the LMJIL was in the business of import and export of the commodities.

3. It is submitted that initially in the year 2015, at the instance of one *Subir Chakraborty*, a representative of the Standard Chartered Bank, the SALL was provided credit facilities by the Standard Chartered Bank where a Tripartite Off-take Agreement was executed between the LMJIL, the Standard Chartered Bank and the SALL. Subsequently, the agreed limits sanctioned by the Standard Chartered Bank were considerably reduced which affected the affairs of the company. At that point of time, Mr. *Subir Chakraborty* again approached the SALL and introduced the complainant for the purpose of financing to the extent of reduced credit facility by the Standard Chartered Bank. In these circumstances, the ‘Working Capital Demand Loan’ was granted by the complainant to the SALL, which is subject matter of the present complaint.

4. Learned Senior Counsel further submitted that in consequence of the Sanction letter, a Facility Agreement and a Tripartite Off-take Agreement besides other documents were also entered into between the parties. As mentioned in the “Terms and Conditions” annexed along with the Sanction

letter, it was also agreed to create a *pari passu* charge on the assets and movable/immovable properties of the company mentioned therein. It was submitted that despite the credit facility being provided by the complainant, the accused company SALL never came out of the business losses and eventually, had to approach the National Company Law Tribunal (NCLT), Kolkata Bench by way of an application under Section 10 of the Insolvency and Bankruptcy Code, 2016 for initiating 'Corporate Insolvency Resolution Process' of Sri Aranath Logistics Ltd. (the SALL) on 16.06.2018. The NCLT vide order dated 08.11.2019, declared the moratorium and also permitted the complainant, who had filed objections as a Financial Creditor, to raise the same before the appointed IRP.

5. It was further submitted that after the arrest of the petitioner on 03.07.2020, only one day of PC remand was given and since the charge-sheet has been filed, the petitioner is no more required for any further investigation. While referring to the charge-sheet, it was pointed out that the other Directors of the company were not even arrested and the charge-sheet against them was filed without arrest. Lastly, it was submitted that the petitioner is 50 years old and whether the transactions involve the element of cheating is a matter of trial.

6. Mr. Vikas Pahwa, learned Senior Counsel appearing for the petitioner submitted that while the transaction in the present matter took place in the year 2017, the complaint came to be filed only in the year 2018. During the investigation, the petitioner is stated to have joined the investigation on more than 5 occasions and has also given comprehensive replies to the questions asked and the documents demanded in the notices issued by the EOW. It was next submitted that there is no allegation that the petitioner had

siphoned off the funds for his own personal use.

7. Ms. Radhika Kolluru, learned APP for the State, duly assisted by Mr. Rajnish Gaur, learned counsel for the complainant, has vehemently opposed the bail application. She has referred to the Facility Agreement as well as the Tripartite Off-take Agreement to submit that the latter was entered into with LMJIL for the reason that in case the SALL was unable to sell the commodities, the same would be sold by the LMJIL on its behalf. She further submitted that the amount of Rs.25 crores received by the SALL was, in fact, transferred to the other sister concerns/shell companies on the same day and the amount of Rs.15 crores was used by the LMJIL to square off its credit facility with the Corporation Bank. She also submitted that the investigation qua the offence of forgery is with respect to the opening of bank accounts of the sister concerns and the same is still pending investigation.

8. In rejoinder arguments, learned Senior Counsels for the petitioner submitted that even from the charge-sheet itself, it is apparent that all the amounts which had gone to the sister concerns were only rotational entries and were received back in the account of the LMJIL on the very same day. It was further submitted that LMJIL was made a party in the Tripartite Off-take Agreement at the instance of the complainant. So far as the issue of incorporation of the shell companies is concerned, the same were stated to have been incorporated in the year 2015 which was two years prior to the sanction of the loan in the present case.

9. I have heard the learned senior counsels for the petitioner as well as the learned APP for the State and have gone through the case records.

10. The principles governing the grant of bail have been stated time and again. At this stage, I deem it apposite to refer to some of the recent as well as long standing decisions of the Apex Court in this regard.

11. In Sanjay Chandra v. Central Bureau of Investigation reported as **(2012) 1 SCC 40**, it has been held as under :-

“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.

24. In the instant case, we have already noticed that the “pointing finger of accusation” against the appellants is “the seriousness of the charge”. The offences alleged are economic offences which have resulted in loss to the State exchequer. Though, they contend that there is a possibility of the appellants tampering with the witnesses, they have not placed any material in support of the allegation. In our view, seriousness of the charge is, no doubt, one of the relevant considerations while considering bail applications but that is not the only test or the factor: the other factor that also requires to be taken note of is the punishment that could be imposed after trial and conviction, both under the Penal Code and the Prevention of Corruption Act. Otherwise, if the former is the only test, we would not be balancing the constitutional rights but rather “recalibrating the scales of justice”.

25. The provisions of CrPC confer discretionary jurisdiction on criminal courts to grant bail to the accused pending trial or in appeal against convictions; since the jurisdiction is discretionary, it has to be exercised with great care and caution by balancing the valuable right of liberty of an individual and the interest of the society in general. In our view, the reasoning adopted by the learned District Judge, which is affirmed by the High Court, in our opinion, is a denial of the whole basis of our system of law and normal rule of bail system. It transcends respect for the requirement that a man shall be considered innocent until he is found guilty. If such power is recognised, then it may lead to chaotic situation and would jeopardise the personal liberty of an individual.”

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39. Coming back to the facts of the present case, both the courts have refused the request for grant of bail on two grounds: the primary ground is that the offence alleged against the accused persons is very serious involving deep-rooted planning in which,

huge financial loss is caused to the State exchequer; the secondary ground is that of the possibility of the accused persons tampering with the witnesses. In the present case, the charge is that of cheating and dishonestly inducing delivery of property and forgery for the purpose of cheating using as genuine a forged document. The punishment for the offence is imprisonment for a term which may extend to seven years. It is, no doubt, true that the nature of the charge may be relevant, but at the same time, the punishment to which the party may be liable, if convicted, also bears upon the issue. Therefore, in determining whether to grant bail, both the seriousness of the charge and the severity of the punishment should be taken into consideration.

40. The grant or refusal to grant bail lies within the discretion of the court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the court, whether before or after conviction, to assure that he will submit to the jurisdiction of the court and be in attendance thereon whenever his presence is required.

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43. There are seventeen accused persons. Statements of witnesses run to several hundred pages and the documents on which reliance is placed by the prosecution, are voluminous. The trial may take considerable time and it looks to us that the appellants, who are in jail, have to remain in jail longer than the period of detention, had they been convicted. It is not in the interest of justice that the accused should be in jail for an indefinite period. No doubt, the offence alleged against the appellants is a serious one in terms of alleged huge loss to the State exchequer, that, by itself, should not deter us from enlarging the appellants on bail when there is no serious contention of the respondent that the

accused, if released on bail, would interfere with the trial or tamper with evidence. We do not see any good reason to detain the accused in custody, that too, after the completion of the investigation and filing of the charge-sheet.

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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.”

12. Recently, in P. Chidambaram v. Central Bureau of Investigation reported as **2019 SCC OnLine SC 1380**, the Supreme Court held as under:-

“22. The jurisdiction to grant bail has to be exercised on the basis of the well-settled principles having regard to the facts and circumstances of each case. The following factors are to be taken into consideration while considering an application for bail:- (i) the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution; (ii) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses; (iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence; (iv) character behaviour and standing of the accused and the circumstances which are peculiar to the accused; (v) larger interest of the public or the State and similar other considerations (vide Prahlad Singh Bhati v. NCT, Delhi (2001) 4 SCC 280). There is no hard and fast rule regarding grant or refusal to grant bail. Each case has to be considered on the facts and circumstances of

each case and on its own merits. The discretion of the court has to be exercised judiciously and not in an arbitrary manner. At this stage itself, it is necessary for us to indicate that we are unable to accept the contention of the learned Solicitor General that “flight risk” of economic offenders should be looked at as a national phenomenon and be dealt with in that manner merely because certain other offenders have flown out of the country. The same cannot, in our view, be put in a straight-jacket formula so as to deny bail to the one who is before the Court, due to the conduct of other offenders, if the person under consideration is otherwise entitled to bail on the merits of his own case. Hence, in our view, such consideration including as to “flight risk” is to be made on individual basis being uninfluenced by the unconnected cases, more so, when the personal liberty is involved.

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27. As discussed earlier, insofar as the “flight risk” and “tampering with evidence” are concerned, the High Court held in favour of the appellant by holding that the appellant is not a “flight risk” i.e. “no possibility of his abscondence”. The High Court rightly held that by issuing certain directions like “surrender of passport”, “issuance of look out notice”, “flight risk” can be secured. So far as “tampering with evidence” is concerned, the High Court rightly held that the documents relating to the case are in the custody of the prosecuting agency, Government of India and the Court and there is no chance of the appellant tampering with evidence.

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33. The appellant is not a “flight risk” and in view of the conditions imposed, there is no possibility of his abscondence from the trial. Statement of the prosecution that the appellant has influenced the witnesses and there is likelihood of his further influencing the witnesses cannot be the ground to deny bail to the appellant particularly, when there is no such whisper in the six remand applications filed by the prosecution. The charge sheet has been filed against the appellant and other co-accused on 18.10.2019. The

appellant is in custody from 21.08.2019 for about two months. The co-accused were already granted bail. The appellant is said to be aged 74 years and is also said to be suffering from age related health problems. Considering the above factors and the facts and circumstances of the case, we are of the view that the appellant is entitled to be granted bail”

13. Again, in P. Chidambaram v. Directorate of Enforcement reported as **2019 SCC OnLine SC 1549**, the Supreme Court has held as under :-

“23. Thus from cumulative perusal of the judgments cited on either side including the one rendered by the Constitution Bench of this Court, it could be deduced that the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial. However, while considering the same the gravity of the offence is an aspect which is required to be kept in view by the Court. The gravity for the said purpose will have to be gathered from the facts and circumstances arising in each case. Keeping in view the consequences that would befall on the society in cases of financial irregularities, it has been held that even economic offences would fall under the category of “grave offence” and in such circumstance while considering the application for bail in such matters, the Court will have to deal with the same, being sensitive to the nature of allegation made against the accused. One of the circumstances to consider the gravity of the offence is also the term of sentence that is prescribed for the offence the accused is alleged to have committed. Such consideration with regard to the gravity of offence is a factor which is in addition to the triple test or the tripod test that would be normally applied. In that regard what is also to be kept in perspective is that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case since there is no such bar created in the relevant enactment passed by the legislature nor does the bail jurisprudence provides so. Therefore, the underlining conclusion is that irrespective of the nature and gravity of charge, the precedent of another case alone will not be the basis for either grant or refusal of bail though it may have a bearing on principle. But ultimately the consideration will have to be on case to case basis on the facts

involved therein and securing the presence of the accused to stand trial.”

14. The law on bail was very comprehensively encapsulated in the decision of Nikesh Tarachand Shah v. Union of India & Anr. reported as **(2018) 11 SCC 1**, wherein it has been held as under:-

“15. The provision for bail goes back to Magna Carta itself. Clause 39, which was, at that time, written in Latin, is translated as follows:

“No free man shall be seized or imprisoned or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land.”

It is well known that Magna Carta, which was wrung out of King John by the Barons on 15-6-1215, was annulled by Pope Innocent III in August of that very year. King John died one year later, leaving the throne to his 9 year old son, Henry III. It is in the reign of this pious King and his son, Edward I, that Magna Carta was recognised by kingly authority. In fact, by the Statutes of Westminster of 1275, King Edward I repeated the injunction contained in Clause 39 of Magna Carta. However, when it came to the reign of the Stuarts, who believed that they were kings on earth as a matter of divine right, a struggle ensued between Parliament and King Charles I. This led to another great milestone in the history of England called the Petition of Right of 1628. Moved by the hostility to the Duke of Buckingham, the House of Commons denied King Charles I the means to conduct military operations abroad. The King was unwilling to give up his military ambition and resorted to the expedient of a forced loan to finance it. A number of those subject to the imposition declined to pay, and some were imprisoned; among them were

those who became famous as “the Five Knights”. Each of them sought a writ of habeas corpus to secure his release. One of the Knights, Sir Thomas Darnel, gave up the fight, but the other four fought on. The King's Bench, headed by the Chief Justice, made an order sending the Knights back to prison. The Chief Justice's order was, in fact, a provisional refusal of bail. Parliament being displeased with this, invoked Magna Carta and the Statutes of Westminster, and thus it came about that the Petition of Right was presented and adopted by the Lords and a reluctant King. Charles I reluctantly accepted this Petition of Right stating, “let right be done as is desired by the petition”. Among other things, the petition had prayed that no free man should be imprisoned or detained, except by authority of law.

16. In Bushell's case [Bushell's case, 1670 Vaughan 135 : 124 ER 1006] , decided in 1670, Sir John Vaughan, C.J. was able to state that: (ER p. 1007)

“The writ of habeas corpus is now the most usual remedy by which a man is restored again to his liberty, if he have been against law deprived of it.”

Despite this statement of the law, one Jenkes was arrested and imprisoned for inciting persons to riot in a speech, asking that King Charles II be petitioned to call a new Parliament. Jenkes went from pillar to post in order to be admitted to bail. The Lord Chief Justice sent him to the Lord Chancellor, who, in turn, sent him to the Lord Treasurer, who sent him to the King himself, who, “immediately commanded that the laws should have their due course”. (See Jenke's case [Jenke's case, (1676) 6 How St Tr 1189] , How St Tr at pp. 1207 & 1208). It is cases like these that led to the next great milestone of English history, namely, the Habeas Corpus Act, 1679. This Act recited that many of the King's subjects have been long detained in prison in cases where, by law, they should have been set free on bail. The Act provided for a habeas corpus procedure which plugged legal loopholes

and even made the King's Bench Judges subject to penalties for non-compliance.

17. The next great milestone in English history is the Bill of Rights, 1689, which was accepted by the only Dutch monarch that England ever had, King William III, who reigned jointly with his wife Queen Mary II. It is in this document that the expression “excessive bail ought not to be required...” first appears in Chapter 2 Clause 10.

*18. What is important to learn from this history is that Clause 39 of the Magna Carta was subsequently extended to pre-trial imprisonment, so that persons could be enlarged on bail to secure their attendance for the ensuing trial. It may only be added that one century after the Bill of Rights, the US Constitution borrowed the language of the Bill of Rights when the principle of habeas corpus found its way into Article I Section 9 of the US Constitution, followed by the Eighth Amendment to the Constitution which expressly states that, “excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted”. We may only add that the Eighth Amendment has been read into Article 21 by a Division Bench of this Court in *Rajesh Kumar v. State* [*Rajesh Kumar v. State*, (2011) 13 SCC 706 : (2012) 2 SCC (Cri) 836] at paras 60 and 61.*

*19. In *Gurbaksh Singh Sibbia v. State of Punjab* [*Gurbaksh Singh Sibbia v. State of Punjab*, (1980) 2 SCC 565 : 1980 SCC (Cri) 465] , the purpose of granting bail is set out with great felicity as follows: (SCC pp. 586-88, paras 27-30)*

“27. It is not necessary to refer to decisions which deal with the right to ordinary bail because that right does not furnish an exact parallel to the right to anticipatory bail. It is, however, interesting that as long back as in 1924 it was held by the High Court of Calcutta

in Nagendra Nath Chakravarti, In re [Nagendra Nath Chakravarti, In re, 1923 SCC OnLine Cal 318 : AIR 1924 Cal 476 : 1924 Cri LJ 732] , AIR pp. 479-80 that the object of bail is 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 is whether it is probable that the party will appear to take his trial and that it is indisputable that bail is not to be withheld as a punishment. In two other cases which, significantly, are the “Meerut Conspiracy cases” observations are to be found regarding the right to bail which deserve a special mention. In K.N. Joglekar v. Emperor [K.N. Joglekar v. Emperor, 1931 SCC OnLine All 60 : AIR 1931 All 504 : 1932 Cri LJ 94] it was observed, while dealing with Section 498 which corresponds to the present Section 439 of the Code, that it 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. It was observed by the Court 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. In Emperor v. H.L. Hutchinson [Emperor v. H.L. Hutchinson, 1931 SCC OnLine All 14 : AIR 1931 All 356 : 1931 Cri LJ 1271] , AIR p. 358 it was said that it was very unwise to make an attempt to lay down any particular rules which will 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 a bail may be granted but not in other classes. It was observed that the principle to be deduced from the various sections in the Criminal Procedure Code was that grant of bail is the rule and refusal is the exception. 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. As a presumably innocent person he is therefore entitled to freedom and every opportunity to look after his own case. A presumably innocent person must have his freedom to enable him to establish his innocence.

28. *Coming nearer home, it was observed by Krishna Iyer, J., in Gudikanti Narasimhulu v. State [Gudikanti Narasimhulu v. State, (1978) 1 SCC 240 : 1978 SCC (Cri) 115] that: (SCC p. 242, para 1)*

‘1. ... the issue [of bail] is one of liberty, justice, public safety and burden of the public treasury, all of which insist that a developed jurisprudence of bail is integral to a socially sensitised judicial process. ... After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of “procedure established by law”. The last four words of Article 21 are the life of that human right.’

29. *In Gurcharan Singh v. State (UT of Delhi) [Gurcharan Singh v. State (UT of Delhi), (1978) 1 SCC 118 : 1978 SCC (Cri) 41] it was observed by*

Goswami, J., who spoke for the Court, that: (SCC p. 129, para 29)

‘29. ... 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 cancelling bail.’

30. In American Jurisprudence (2nd, Vol. 8, p. 806, para 39), it is stated:

‘Where the granting of bail lies within the discretion of the court, the granting or denial is regulated, to a large extent, by the facts and circumstances of each particular case. Since the object of the detention or imprisonment of the accused is to secure his appearance and submission to the jurisdiction and the judgment of the court, the primary inquiry is whether a recognizance or bond would effect that end.’

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.”

15. From a combined reading of the above decisions, the following factors are required to be kept in mind for grant of bail:

- (i) whether there is any prima facie or reasonable ground to be believed that the accused had committed the offence.
- (ii) nature and gravity of the accusation;

- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing, if released on bail;
- (v) character, behaviour, means, position and standing of the accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being influenced;
- and
- (viii) danger, of course, of justice being thwarted by grant of bail.

[Ref: Prasanta Kumar Sarkar v. Ashis Chatterjee reported as **(2010) 14 SCC 496**]

16. Coming to the facts of the present case, it is an admitted fact that the co-accused namely *Navin Kumar Jain* and *Hulash Chand Jain* were the other Directors and shareholders of SALL as well as LMJIL. They also signed/undertook personal guarantee to the complainant company in their capacity as Directors of the SALL against the “Working Capital Demand Loan”. *Navin Jain* had also signed the Tripartite Off-take Agreement in the capacity of Director of LMJIL. Both of them were not even arrested and the charge sheet against them was filed without arrest. During two years of enquiry/investigation, the petitioner joined investigation on multiple occasions. After his arrest, the EOW sought only one day PC remand. Neither in the Status Report nor during the course of arguments, any apprehension was shown that the petitioner is a “flight risk”. The case arises out of a commercial transaction and is based on documents that already

stand seized. The petitioner has already approached the NCLT where a moratorium on the assets/properties has been declared and an IRP has been appointed. The complainant has already approached NCLT.

17. Looking into the facts and circumstances of the case, the petitioner is directed to be released on regular bail on his furnishing a personal bond in the sum of Rs. 25 lacs alongwith two sureties of the like amount each to the satisfaction of the trial court and subject to further following conditions:

- (i) One of the sureties has to be a family member of the petitioner.
- (ii) The petitioner shall surrender his passport with the trial court, if not already done however, he shall be at liberty to approach the trial court to seek prior permission for travelling abroad which shall be considered on its own merit.
- (iii) The petitioner shall provide his mobile telephone number to the I.O. which he will keep operational at all times during the period of the trial.
- (iv) The petitioner shall continue to join & cooperate in the investigation as and when directed to do so.
- (v) The petitioner shall not try to get in touch with any of the prosecution witnesses directly or indirectly or tamper with the evidence.
- (vi) The petitioner shall regularly appear before the trial court.

18. Lastly, nothing contained hereinabove shall be considered as an expression on the merits of the case.

19. With the above directions, the application stands disposed of.
20. A copy of this order be communicated to the Jail Superintendent as well as the concerned trial court electronically.

(MANOJ KUMAR OHRI)
JUDGE

SEPTEMBER 14, 2020
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