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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on : 12th April, 2021

Delivered on : 05th May, 2021

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BAIL APPLN. 3952/2020

MANINDER SINGH

..... Petitioner

Through: Mr.N.Hariharan, and Mr.Sudhir
Nandrajog, Senior Advocates with
Mr.Tanveer Ahmed Mir,
Mr.Sidharth S.Yadav, Mr.Vaibhav
Suri, Mr.Prabhav Ralli, Mr.Varun
Varma, Ms.Riya Soni, Advocates.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr.Amit Ahlawat, APP for the
State.
Mr.Sandeep Das, Mr.Siddharth
Sharma, Mr.Shashwat Sarin,
Advocates for complainant.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

YOGESH KHANNA, J.

1. Petitioner seeks regular bail in case FIR No.50/2019 under Section 409/420/120B IPC registered at police station EOW.
2. The complaint is made by Manpreet Singh Suri, AR-authorized representative of Religare Finvest Limited (*RFL*) against Malvinder Mohan Singh (*MMS*), Shivinder Mohan Singh (*SMS*), the then promoters/ directors, Sunil Godhwani, the then Chairman-cum-Managing Director, and NK Ghoshal. The AR of *RFL* alleges the above persons

having absolute control on *REL* and its subsidiaries, have put *RFL* in poor financial condition by disbursing loans to entities having no financial standings. These entities willfully defaulted in repayments and caused wrongful loss to *RFL* to the tune of Rs.2397 crores. These shell companies/entities were controlled by above persons.

3. It is further the case of prosecution the Reserve Bank of India (*RBI*) has pointed out such discrepancies in its analysis viz. the top borrowers of *RFL*, under Corporate Loan Book(*CLB*) portfolio, were *related* entities; there is inter linkage between the borrowers as funds were routed from one borrower to another; and the loan amounts ultimately are coming to the group companies of *RFL*.

4. It is alleged Malvinder Mohan Singh and Shivinder Mohan Singh were major shareholders till June 2017 and remained in control of the companies till February 2018 when after the companies were taken over by the new management and then it was revealed the complainant had suffered a wrongful loss to the tune of Rs.2397 crores. It is alleged, the alleged promoters viz Malvinder Mohan Singh, Shivinder Mohan Singh in conspiracy with Sunil Godhwani, CA had swindled the public money to the tune of Rs.2397 Crores. It is stated the total standalone net -worth (*Aggregate of Share Capital, Reserves & Surplus*) of *REL* as on 31.02.2018 stood at Rs.2,328.22 crores. Its investment in *RFL* of Rs.2,090.34 crores comprises 89.78% of the net worth of the *REL*. It is alleged extremely high amount of shareholder's funds of *REL* has been invested in *RFL* and such diversion of funds to *RFL* causes a direct loss to the shareholders of *REL*.

5. During the course of investigation, a report dated 26.01.2017 from RBI was obtained which noted the entities were *related* entities; there was *inter-linkage* between the borrowers themselves; and out of 21 loans disbursed to 9 borrowers, the funds disbursed ultimately came back to the group companies of *RFL*; accounts of various other borrowers were used to route funds to the group companies; borrower companies had a weak financial standing with no revenue from operations; cash losses etc and loan for working capital was given when there was no business. Further, loans were given on the recommendations of the promoters as the owners of the borrowing entities had good relations with the promoters; the loans given were without any documentation, except a loan agreement/ MoU entered into between *RFL* and the borrower(s). The end-use of these funds is not known.

6. During the course of investigation, the accused persons namely Malvinder Mohan Singh, Shivinder Mohan Singh, Sunil Godhwani, Anil Saxena and Kavi Arora are arrested. After completion of investigation, the charge sheet is filed against them only.

7. Accused Maninder Singh was the Chief Business Officer and an appointed Group Chief Executive Officer of *REL* vide appointment letter dated 22.03.2017 and was a part of the *Risk Management Committee* along with Kavi Arora. He was designated as a Key Management Personnel on 22.03.2017 and was holding Key Managerial position in the organization and allegedly was instrumental in conspiracy with promoters Malvinder Mohan Singh, Shivinder Mohan Singh and Kavi

Arora, CEO and MD of *RFL* for siphoning of the money from the complainant company to the tune of Rs.2000 crores.

8. It is also alleged by the prosecution the petitioner was well aware the entities to whom loans worth hundreds of crores were extended were not credit worthy but kept approving the loans since these entities were linked to the promoters and signed financial statements of *RFL* in which the transactions in question were not categorized as *related party transactions*, though most of the loans were diverted to RHC Holding Private Limited (a promoter entity).

9. Out of the loans disbursed to 19 entities, petitioner herein was involved in sanctioning and disbursal of loan to 13 entities along with Kavi Arora worth Rs.850 Crores. The petitioner was associated with *Ranbaxy Laboratory Limited* for 27 years which established his proximity with the promoters i.e. Malvinder Mohan Singh and Shivinder Mohan Singh and the transfer of funds is facilitated along with Kavi Arora in the other companies of promoters which were misappropriated so that no objection could be raised from any quarter. He was drawing huge salary and benefit in the capacity of Chief Business Officer and Group CEO of the holding company i.e. Religare Enterprise Limited. It is also alleged he was highly paid and qualified chartered accountant but flouted all corporate governance norms to extend unsecured loans to the promoters linked entities which was eventually misappropriated/siphoned off.

10. It is also alleged public money have been swindled with the conspiracy of officials of the company and promoters. The main charge

sheet has been filed and further investigation is being carried out and if accused is released on bail he can influence the witnesses and can temper with the evidences.

11. Admittedly, the present FIR was registered on 27.03.2019. The charge sheet was filed by the EOW on 10.01.2020 wherein no allegations was made against this petitioner. It was only after filing of the charge sheet, EOW arrested the petitioner on 27.10.2020 and sent him to custody in this case. The petitioner was a part of the *risk management committee* for a considerable period of time and he alongwith other Committee members *assessed* the *risk* for grant of loan to certain entities and that out of 13 such entities, 6 entities have been given clean chit by *SEBI*. The petitioner admittedly was not a part of the Related Party Transaction Committee, Loan Investment and Borrowing Committee at any point of time during his employment, which committees finally approved and sanctioned the plans.

12. The fact petitioner was a part of the Risk Management Committee was known to the prosecution at the time of filing of *initial* charge sheet on 10.01.2020 in which detailed investigation qua alleged offence was made. The charge sheet filed prior to this arrest and the Supplementary charge sheet, gives the same table showing the petitioner herein, being a part of the Risk Management Committee. The supplementary charge sheet, filed on 20.01.2021, did not bring on record any new material against this petitioner. This material was already within the knowledge, power and possession of the *EOW* at the time of filing first charge sheet dated 10.01.2020. Admittedly, he has been involved in this case only on

account of *being in employment* with *REL* from 26.10.2020 till 14.11.2017 during which period he was also appointed as a Non-Executive Director. However, the tripping of loans took place from the year 2008-2017. Admittedly, co accused Anil Saxena is granted regular bail vide order dated 17.06.2020 of this Court, was a group *CFO* of *REL* from 2010 till 14.11.2017. He was *admittedly* a part of the Risk Management Committee and worked as a *key management personnel* for about six years.

13. The Supreme Court did not disturb the bail order of co-accused Anil Saxena but with a rider *such order would not operate as a precedent for other accused*. The main beneficiary Shivinder Mohan Singh has also been granted regular bail by learned Trial Court vide order dated 03.03.2021 and co-accused Narender Kumar Goushal has also been granted regular bail per order dated 14.01.2021 by the learned Session's Court, Saket Courts, New Delhi. The main accused Shivinder Mohan Singh has also been granted regular bail by this Court in Case ECIR/05/DLZO-II/2019 registered by Enforcement Directorate. He was also granted regular bail in FIR No.189/2019 police station EOW by the learned Trial Court per order dated 01.09.2020.

14. Admittedly, the petitioner is *not a beneficiary* to even a single penny and whatever was done appears to be *at the instance of beneficiaries* Shivinder Mohan Singh and Malvinder Mohan Singh, who have since been granted bail. Though it is alleged the orders of grant of their bails have been stayed but admitted their bails are not cancelled as yet. It is also the case of the petitioner though total amount alleged is

Rs.2397 crores, but such figure pertains to the total disbursal of the loan by *RFL* and not the *outstanding* to *RFL*. The Enforcement Directorate in the chargesheet dated 10.01.2020 has rather concluded only Rs.300 crores out of Rs.2397 crores is outstanding.

15. It is also alleged petitioner has no flight risk as has deep roots in the society and there been no allegations of tempering / influencing any witness from 27.03.2019 till the filing of the charge sheet or till the date of his arrest. The entire trail of money has since been investigated and the transaction pertaining to petitioner regarding approval of 13 loans is already part of the first charge sheet where the petitioner was not even made an accused or was arrested. Thereafter no new material surfaced, yet he was arrested. It is alleged the offences are premised on financial transactions, all of which have taken place through banking channels, hence, even the custodial investigation was never sought by the prosecution upon arrest.

16. Admittedly the investigating authority did not arrest members of other instrumental committees viz Related Party Transaction Committee, which committee used to recommend the sanctioning of loan – such members are Rashi Dhir, Avinash Chander Mahajan, Harpal Singh, Monish K Dutt, Sunil Kumar Garg and Pankaj Sharma.

17. It is alleged the investigating authority cannot discriminate between accused persons *per R Vasudevan vs CBI, New Delhi 2010(166)* DLT 583 which holds as under:-

“15. Another point which arises for consideration is the discriminatory treatment of the petitioner qua the other co-accused Ankur Chawla who is named in the FIR. The

Sessions Judge had rejected this plea of the petitioner by observing that it is not for the Court to say as to when and which of the accused is to be arrested. This is true that the investigation is in the exclusive domain of the police or the investigating agency and ordinarily the Court would not interfere in the investigation except to the extent what is permitted under Chapter XII of the CPC. But at the same time, the High Court cannot ignore the fact, in case the investigating agency is acting in a discriminatory or arbitrary manner.

16. xxx xxx xxx

17. In the instant case it seems that colour of dress of the co-accused has weighed with the investigating agency and it has for reasons best known to them chosen to record the statements of the co-accused on couple of occasions who is bound to feign ignorance and make his statement exculpating himself. Such an unfair approach does not befit the premier investigation agency like CBI as it certainly shows discrimination qua the petitioner. Our own High Court in Binoy Jacob (supra) case has very categorically observed that our country is governed by rule of law which envisages that all persons must be dealt with the same manner while doing so. The Court has certainly not only an obligation but also a right to call upon the investigating agency to explain its actions qua a particular co-accused and in case any reasonable explanation is not given it may draw its own conclusion.

18. The petitioner herein was an employee; not a beneficiary to a single penny; the main beneficiaries Shivinder Mohan Singh and Narender Kumar Ghoshal have since been granted regular bail by the learned Trial Court; such bails have not been cancelled as yet; the properties worth Rs.300 crores stood attached; there being no allegation against him of tempering of evidence or influencing of witnesses; the perusal of chargesheet shows the entire trail of money stood investigated; he is not named in FIR or in the first chargesheet; no new material brought on record by the supplementary chargesheet; custodial interrogation never sought of this applicant by the authorities and since

the investigation qua this applicant is complete and he being no more required for the purpose of investigation hence, considering above, there is no impediment to grant him bail.

19. In the circumstances, the applicant is hereby granted bail on his executing a personal bond of Rs.1.00 lac with one surety of like amount to the satisfaction of the learned Trial Court/Duty MM. The petitioner herein is also directed not to leave the jurisdiction of National Capital Territory of Delhi without prior permission of learned Trial Court; the petitioner shall not contact any of the employee of REL, RFL or any of the Religare group of companies; the petitioner shall provide his contact number to the SHO concerned and ensure he is reachable on the said mobile number at all time and shall ensure he is present at all hearings/proceedings.

20. With the observations above, the petition stands disposed of. Pending application(s), if any, also stands disposed of. Nothing opined herein shall be construed as observation on the merits of case pending trial.

21. A copy of this order be communicated electronically to the learned Trial Court/Jail Superintendent for information and compliance.

YOGESH KHANNA, J.

MAY 05, 2021

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