

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-7039-2022 (O&M)
Date of decision: 08.04.2022

Lalit Goyal

...Petitioner

Versus

Directorate of Enforcement and another

...Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vikram Chaudhari, Sr. Advocate with
Mr. Keshavam Chaudhari, Advocate,
Mr. Surya Prakash Khattri, Advocate,
Mr. Arshdeep Singh Khurana, Advocate,
Ms. Hargun Sandhu, Advocate,
Ms. Tanavi Sharma, Advocate
for the petitioner.

Mr. S. V. Raju, Addl. Solicitor General of India &
Mr. Satya Pal Jain, Addl. Solicitor General of India with
Mr. Arvind Moudgil, Sr. Panel Counsel,
Mr. Sanjay Vashishth, Sr. Panel Counsel,
Mr. A. Venkatesh, Advocate,
Mr. Ankit Bhatia, Advocate,
Ms. Jyotika Panesar, Advocate,
Mr. Anirudh Sood, Advocate
for the petitioner-ED.

Mr. Himmat Singh, DAG, Haryana and
Mr. Deepak Grewal, DAG, Haryana.

Mr. Hemant Bassi, Advocate,
Mr. H.S. Deol, Advocate,
Mr. Mansur Ali, Advocate,
Mr. Imran Ali, Advocate,
Mr. Tushar Mehta, Advocate
for the victims/intervenors.

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for grant of regular bail to the petitioner in PMLA Case No.COMA/01/2022 titled as Directorate of Enforcement Vs. Lalit Goyal in ECIR/GNZO/10/2021 dated 15.06.2021 under Sections 3 & 4 of The Prevention of Money Laundering Act, 2002 (for short 'PMLA'), arising out of FIR No.38 dated 11.02.2020 under Sections 406, 420, 467, 468, 471 IPC, Police Station Pinjore, Panchkula.

At the very outset, learned counsel for the intervenors have referred to an order dated 07.04.2022 passed by the Hon'ble Supreme Court passed in SLP (Crl.) Diary No.9985/2022 filed by one of intervenor Anand Gupta, challenging the order granting interim bail to the petitioner. It is next submitted that since the petitioner is taking dates and interim bail is continuing, the Hon'ble Supreme Court has directed to list the aforesaid SLP on 11.04.2022.

With the concurrence of all the learned counsels for the parties, the arguments in main case are heard.

On 24.02.2022, while granting interim bail to the petitioner, following order was passed by this Court: -

“In compliance of the order dated 21.02.2022, reply by way of affidavit of the Superintendent, Central Jail, Ambala along with health condition reports submitted by Civil Surgeon, Ambala as well as Medical Officer, Central Jail, Ambala City has been filed in the Court and the same is taken on record. The health condition report of the petitioner submitted by Civil Surgeon, Ambala reads as under: -

“...A 55 year old male, Lalit Goyal, K/C/O Anxiety Neurosa, Floating Vision Lt eye, Hyperlipidemia, GERD & HTN on treatment and allergic to Iodine dye, was admitted to Sub Divisional Hospital, Ambala Cantt on 08.02.2022 with raised BP and chief complaints of Anxiety, Palpitations, Shortness of Breath, Insomnia, Backache, Retrosternal Burning and Pain Epigastrium. For his symptoms, Psychiatric consultation was sought. Patient was diagnosed as a case of panic episode and prescribed tab Sertaline, tab Propranolol and tab Alprazolam.

On 09.02.2022, neurosurgical opinion was advised for backache for which analgesics (inj tramadol) was

prescribed. MRI scan for lumbar sacral region was advised but when the patient was taken for MRI scan on 10.02.2022, he started complaining of ghabrahat in the center. On examination, patient had a raised BP (164/96mmHg), for which urgent Medicine consultation was done and tab antihypertensives was prescribed. TMT was advised to rule out any cardiac abnormality.

On 11.02.2022, patient started complaining of Tinnitus, Vertigo and Blurring of Vision in both eyes, for which Eye and ENT opinion was taken. Also, patient had elevated Blood Pressure readings (196/102 mm Hg) despite of the medications prescribed by the physician, for which, injectible antihypertensives (Inj Labitolol and Inj Furasimide) were prescribed in stat dose. Pure tone audiometry and X ray cervical spine was advised by the ENT surgeon.

Same treatment was continued, but patient continued to complain of backache and had High BP readings, for which, he was again taken up for MRI scan on 12.02.2022, which showed annular tear at L3-4, L4-5 and disc prolapse at L5-S1. Tab Gabapentin and tab Nortryptalin was advised. Further, for persistent chest

pain, Cardiology opinion was sought and TMT was advised. On 14.02.2022, patient was taken up for TMT, which had to be stopped because of the reason that patient developed Chest pain during TMT and result of TMT was inconclusive. Therefore, Cardiologist advised Cardiac Angiography, but after enquiring the patients regarding allergies, the patient had given H/o allergy to Iodine Dye, so Cardiac Angiography could not be performed in the center.

On 15.02.2022, Right Upper Limb Radiculopathy was diagnosed by Neurosurgeon and was advised. Neurosurgical opinion on 16.02.2022 and 17.02.2022 was sought for left upper limb pain, for which, Physiotherapy was advised.

The patient had occasional spikes of High Blood Pressure despite of all the medications and was being managed conservatively under Neurosurgery till 20.02.2022. Patient started c/o bleeding per rectum associated with pain abdomen, for which, Gastroenterologist opinion was sought. On examination, Grade 2 Internal Hemorrhoids were diagnosed at 3, 7 and 11 o'clock position. Patient was managed

conservatively with soft diet, sitz bath and stool softeners and ultrasound abdomen was advised. Patient was advised CE CT Abdomen and Colonoscopy for continued pain abdomen, but colonoscopy could not be performed in this center.

On 22.02.2022, Ophthalmology consultation in view of black patches in vision and floating vision in left eye was done, OCT Scan and Retina Specialist opinion for the scar was advised. The patient was continued on conservative management for all the complaints.

On 23.02.2022, in view of persistent mood swings, anxiety, insomnia, panic attacks and palpitations, psychiatry opinion was sought. In view of patient being in Psychological Crisis, supportive environment was advised along with continuation of tab Sertaline, tab Propanolol and tab Alprazolam.

In view of patient's persistent complaints, history of allergy to Iodine Dye and Cardiac Angiography, OCT scan, Retina opinion, CECT Abdomen and Colonoscopy as advised by Cardiologist, Ophthalmologist and Gastroenterologist respectively and non-availability of above-mentioned High-end investigations at the center.

Meanwhile patient is being treated conservatively at this center and patient needs supportive environment.”

Learned senior counsel for the petitioner submits that the petitioner be granted interim bail for a period of 15 days to enable him to undergo treatment from a specialized hospital either at Gurugram or Chandigarh and undertakes that the petitioner will not leave the jurisdiction of State of Haryana and Chandigarh in any manner during the intervening period and he will stay either at Gurugram or Chandigarh for medical treatment. It is further submitted that the petitioner will mark his presence with the Investigating Officer of the Enforcement Directorate twice a week through video conferencing.

Prayer for grant of interim bail is opposed by learned Additional Solicitor General of India, assisted by learned counsel for the victim(s) as well as learned State counsel, on the ground that there is a possibility that the petitioner may flee from the country, as he has been granted the permission to travel abroad.

In reply, learned senior counsel for the petitioner has submitted that passport of the petitioner is already seized by the Enforcement Directorate and he will not travel abroad during this period and will stay either at Gurugram or Chandigarh.

Considering the submissions made by learned counsel for the parties, I deem it appropriate to grant interim bail to the petitioner on medical grounds.

Accordingly, the petitioner is directed to be released on interim bail for a period of 15 days from the date of his release, with the following directions: -

- (a) He will stay either at Gurugram or Chandigarh.*
 - (b) He will mark his presence with the Investigating Officer of the Enforcement Directorate twice a week through video conferencing.*
 - (c) On the next date of hearing, he will place on record his complete treatment record by way of filing an application with advance copy to the counsel opposite.*
 - (d) He will not dispose of or alienate any of his property.*
- . List again on 16.03.2022.*

In the meantime, reply, if any, be filed with an advance copy to learned ounsel for the petitioner.”

Thereafter, on 09.03.2022, while extending interim bail on medical grounds, it was directed that the petitioner appear before the Civil Surgeon, Ambala, who will constitute a Medical Board and submit the report regarding medical health condition of the petitioner.

On 16.03.2022, after the Medical Board comprising of seven doctors gave a report, again following order was passed: -

“Learned State counsel has placed on record the report of the Medical Board, comprising seven doctors. The operative part of the report reads as under:

1. Psychiatry Department: *Patient is an old case of mixed anxiety and depressive disorder who currently presented with anxiety symptoms, panic episodes with psycho social crisis at times which has exacerbated for one month. Patient has consulted multiple government and private psychiatrists and have been advised psycho social rehabilitation with psychiatric medications. There is intermittent improvement of psychiatric symptoms but no complete improvement is achieved. Currently patient has been started on tab Sertaline 50 mg OD, tab Popanolol 20 mg OD, tab Alprax 0.25 mg HS/SOS in severe anxiety.*

Patient is advised psycho social management with psychotherapy at higher centre along with environmental support.

2. General Surgery Department: *The patient had complaints of bleeding per rectum and pain abdomen and was examined on 21/02/2022. Periumbilical tenderness was present along with history of loose stools 6-7 times per day. Internal hemorrhoid grade II @ 3, 7, 11 o'clock position were present. Patient underwent laboratory tests and was advised USG abdomen, CECT abdomen and*

colonoscopy. Subsequently the patient was referred to higher center for further assessment and Colonoscopy and management.

Now patient has undergone colonoscopy test at Jivaka Healthcare Gurugram which is suggestive of anal fissure, hemorrhoids and proctitis. The patient was preliminary diagnosed as infective/ulcerative colitis. Biopsy was taken as documented.

Patient is advised further assessment and management under Gastroenterologist at higher centre Gastroenterologist at higher centre.

3. ENT Department: *On 12/02/2022, patient had complaints of vertigo and tinnitus for 5 days. No history of spontaneous nystagmus, positional vertigo and ataxia was absent. Pure tone audiometry and X ray cervical Spine was advised. Repeat examination on 19/02/2022 was done and PTA was again advised with avoidance to loud noise.*

Currently, he still has complaints of vertigo and tinnitus for which he requires further assessment and management under ENT department.

4. General Medicine Department: *Patient is a known case of hypertension with hypertriglyceridemia with? angina. His BP was 140/86 mmHg on medication. Patient is currently on Tab Amlip 5 mg OD, Tab Fenolip-145 mg 1-tab HS, Tab ecosprin 75 mg 1-tab HS, Tab Eptus 25 mg OD and Tab Embeta XR 25 mg OD. Patient was advised Stress Thallium Test (Modified Bruce protocol) by cardiologist as Treadmill Test (TMT) was inconclusive.*

Clinically, he has mild improvement in symptoms and is advised to continue same treatment and undergo Stress Thallium Test as advised by cardiologist at higher centre.

5. Eye Department: *He is an old case of Central Serous Retinopathy (CSR) status post Photodynamic Therapy (PDT) with Laser, presenting with black patches in vision and floaters on 22/02/2022. He was advised OCT scan and retina specialist opinion. He has now come with reports of Optical Coherence Tomography (OCT) and Fundus Fluroscein Angiography (FFAJ) which were suggestive of left Classic Neovascular Membrane (CNVM) along with CSR for which injection Eyelea is required. The injection may be repeated, if there is no improvement in symptoms. He is advised further management at a well-equipped Retina Disease Eye Centre.*

6. Neurosurgery Department: *Patient complained of right upper limb pain (associated with paresthesia) with lower backache. He was advised MRI cervical and L/S spine for the same. He also had high Blood pressure for which cardiology workup was advised. He underwent USG right upper limb doppler which reported dampening of right subelavian artery, He was diagnosed as a case of Cervical Angina which is suggestive of Thoracic Outlet Syndrome. MRI cervical myeloradiculopathy spine report on 01.03.2022 revealed C6-C7 PIVD (Prolapsed Inter Vertebral Disc) with neural compression on left (> right) exiting nerve and foraminal focal stenosis with multilevel degenerative changes. In lumbar spine, there was an*

annular tear at L3-L4 and L4-L5 disc level. For lower backache, patient had partial relief of symptoms. Patient has been advised tab Hifenac P and Buvalor pain relieving patch (10 mg) for chronic pain. In view of these findings from MRI C-spine and LS spine, patient require further management under Neurosurgery department.

Conclusion:

In view of the examination and medical reports as submitted by the patient before Board Members, the patient requires further treatment and consultation at a well-equipped higher hospital/Centre.

Mr. Bassi has filed the reply, on behalf of the victims, which is taken on record.

List again on 28.03.2022.

Interim order to continue.

A photocopy of this order be placed on the file of other connected case.”

Later on, the order dated 24.02.2022 was extended till date.

Learned senior counsel for the petitioner submits that the petitioner is still under treatment with specialized hospital at New Delhi.

Learned senior counsel for the petitioner, learned Addl. Solicitor General of India for ED, learned State counsel as well as learned counsels for the victims have address the arguments on merits as well.

It is argued on behalf of the petitioner that in 2004-2005, six companies i.e. (i) M/s IREO Pvt. Ltd., (ii) M/s IREO Fiverivers Pvt. Ltd., (iii) M/s IREO Waterfront Pvt. Ltd., (iv) Puma Realtors Pvt. Ltd., (v) M/s

IREO Residences Pvt. Ltd., and (vi) M/s IREO Grace Realtech Ltd., were incorporated and the petitioner was one of the Director from 2009 to 2012 and he resigned from the post of Director on 06.04.2012. It is further submitted that one of the company M/s IREO Funds is an independent entity, based at Mauritius and has invested in the residential and commercial projects in India under the Foreign Direct Investment policy and has also invested huge amount in dollars in six companies i.e. (i) M/s IREO Pvt. Ltd. (accused No.2), (ii) M/s IREO Fiverivers Pvt. Ltd. (accused No.3), (iii) M/s IREO Waterfront Pvt. Ltd. (accused No.4), (iv) Puma Realtors Pvt. Ltd. (accused No.5), (v) M/s IREO Residences Pvt. Ltd. (accused No.6), and (vi) M/s IREO Grace Realtech Ltd. (accused No.7). It is also submitted that from 2011 to 2018, within scope of FDI policy of India and under the provisions of Companies Act, 1956, certain amount invested by M/s IREO Funds was remitted back in the form of buy-back shares after 17 years of the investment as most of the projects were completed and possession was handed over. In the meantime, the petitioner, in 2010, joined IREO Singapore Pvt. Ltd. as President and later on, his designation was changed as MD and then, non-Executive Director. In 2011, the petitioner entered into a consultancy agreement with IREO Management (I) & (II) Ltd., which are independent companies and were merely giving advice to IREO Funds, another independent company, in the investment of its funds in India. The petitioner was an Adviser/Consultant to these companies. It is submitted that the

petitioner is residing in Singapore till March, 2020 and was filing his Income Tax Returns there.

Learned senior counsel has next argued that on 30.03.2015, the foreign unit of Income Tax Department carried out a detailed verification of investors in IREO Funds to verify, if there was any round tripping of money as well as the source of funds received from foreign companies. In a detailed inquiry, nothing suspicious was found and on 30.03.2014, an assessment order was passed, which reads as under: -

*“3.1 During the course of assessment proceedings, it was seen that 99.9% of the shareholding fund of the assessee company was coming through foreign direct funding from Mauritius & Cyprus based Companies. In order to verify the genuineness of the funds, a reference to Mauritius Tax Authorities through FT&TR was made vide letter F.No.DCIT/CC-2/2012-13/1867 dated 22.02.2013. A reference was also made through FT&TR to Foreign Tax Authorities to verify the genuineness of the investors based in USA, France, UK etc. **The replies from the Mauritius Tax Authorities as well as other countries were received and is placed on record and found no adverse in it.**”*

It is further submitted that from 2018 to 2021, 13 FIRs were registered by allottees of the projects undertaken by M/s IREO Pvt. Ltd. and

M/s IREO Fiverivers Pvt. Ltd. with the allegations that there is a delay in completing the projects and handing over the possession and in all these FIRs, closure report has been filed on settlement. It is also submitted that on 15.06.2021, ECIR was registered by Enforcement Directorate under Sections 3 & 4 of PMLA, taking all 13 FIRs as scheduled offence. Learned senior counsel has referred to the complainant dated 15.06.2021 (Annexure P-12), to submit that the basis was 13 FIRs referred to in para No.1 of the complaint and it is further stated in the complaint that as per the investigation conducted under PMLA, it reveals that M/s IREO Fiverivers Pvt. Ltd. through its Resolution Professional filed an application dated 12.12.2020 under the Insolvency and Bankruptcy Code, 2016 before the National Companies Law Tribunal, New Delhi, in which the petitioner was the respondent and as per the investigation carried out by the Directorate, the petitioner is a beneficiary of overseas trust, which are owning and controlling the overseas companies, however, he is evading details of the same. A formal complaint (Annexure P-18) was filed by the Directorate of Enforcement against the petitioner and abovestated six companies under Sections 44 & 45 of PMLA for commission of offence as defined under Section 3 read with Section 70 punishable under Section 4 of PMLA.

Learned senior counsel has referred to para No.1 (xviii) of this complaint, wherein the detail of 30 FIRs is given. FIRs at Sr. Nos.2 to 14 are shown to have been cancelled, as a cancellation report is filed before the

competent Court. With regard to remaining FIRs, it is stated that their status is being identified. It is submitted that though the cancellation report is yet to be accepted, however, the fact that ED is admitting that number of FIRs have been cancelled, the Court should draw an adverse assumption against ED. It is further submitted that in the intervening period, the petitioner received summons from ED and filed an application before the Special Judge (Companies Act), Dwarka Courts (SW), Delhi seeking permission to travel abroad for official work and vide order dated 09.11.2021, same was allowed by the said Court, observing that since the petitioner intend to visit London, U.K., New York and USA for meeting with stakeholders of IREO Funds, as he was residing in Singapore for the last 10 years, therefore, he was granted permission to travel abroad for 15 days from 10.11.2021 to 25.11.2021 subject to the conditions laid down in the said order. It is further submitted that in the meantime, without any notice to the petitioner, a lookout circular was issued against the petitioner and he was detained from travelling abroad on 11.11.2021 and was asked to appear before the ED on 15.11.2021. On the next day i.e. 16.11.2021, the petitioner was arrested.

It is argued on behalf of the petitioner that issuance of lookout notice issued by the ED, despite the fact that the petitioner was granted permission to travel abroad by the Special Judge (Companies Act), Dwarka Courts (SW), New Delhi, vide order dated 09.11.2021, in presence of

officials of ED, was not bonafide, as the order of Court, granting permission to the petitioner, was never challenged.

Learned senior counsel has further argued that prior to the date, when he was granted interim bail on medical grounds, the petitioner had already undergone about 03 months of judicial custody, therefore, considering his health condition, interim bail be made absolute, as under Section 45 (i) of PMLA, it is provided that if a person, who is under age of 16 years or a woman or his sick or infirm, may be released on bail, if the Court so directs. It is also submitted that the petitioner continuously needs medical attention, therefore, interim bail granted to him may be confirmed, as there is no allegation either by the ED or by the intervenors that the petitioner has tried to misuse the concession in the intervening period in any manner.

Mr. S. V. Raju, Id. Addl. Solicitor General of India has argued that the petitioner do not meet the requirement of twin conditions under Section 45 of PMLA and the matter is subjudice before the Hon'ble Supreme Court, whether after amendment, the said provisions stands revived or not, however, he could not dispute that Medical Board consisting of seven doctors has opined about health condition of the petitioner, vide which he was granted the interim bail on medical grounds as per proviso to Section 45 (i) of PMLA. It is further submitted that granting of regular bail to the petitioner will involve the risk of fleeing from justice, as on an earlier

occasion, a lookout notice was issued against the petitioner, when he was trying to travel abroad and the petitioner may try to tamper with the evidence or influence the prosecution witnesses. It is also not disputed that as per investigation of ED and the complaint (Annexure P-18), in some of the FIRs, closure report has already been filed.

Learned counsel for the interveors have submitted that the petitioner is involved in some other FIRs, therefore, again there is a possibility of fleeing from the process of justice. It is further submitted that the victims have made huge investment in IREO projects and the same have not been completed and they have been cheated.

In reply, learned senior counsel for the petitioner has submitted that in majority of the FIRs, claim of the principal amount and substantial interest has been admitted by the Resolution Professional and therefore, closure report has been filed, as admitted by ED. It is also submitted that passport of the petitioner is in custody of ED and therefore, there is no possibility of fleeing from the country.

It may be noticed that from both the sides, some of the judgments have been cited with regard to twin conditions laid down under Section 45 of PMLA as well as judgments of the various High Courts either granting or declining to grant bail, however, for the sake of brevity, same are not reproduced here, as case of the petitioner is considered on the ground of

his health conditions, which suggest his permanent multiple ailments and continuous treatment from specialized doctors.

After hearing learned counsel for the parties and going through the medical record of the petitioner, which is based on a report of Medical Board comprising of seven doctors, constituted by Civil Surgeon, Ambala, I find that case of the petitioner would be covered under proviso to Section 45(i) of PMLA as he is a sick person requiring urgent medical treatment, especially in view of the fact that while in custody for a period of about 03 months, he was repeatedly advised medical care, as noticed in earlier part of this order.

Accordingly, this petition is allowed and the order dated 24.02.2022 passed by this Court, granting interim bail to the petitioner, is hereby made absolute.

[ARVIND SINGH SANGWAN]
JUDGE

08.04.2022
vishnu

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No