



Diksha Rane

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.785 OF 2023

SANT LAL AGGARWAL

..APPLICANT

VS.

1. SERIOUS FRAUD INVESTIGATION
OFFICE

2. STATE OF MAHARASHTRA

..RESPONDENTS

Senior Advocate Vikram Chaudhary a/w. Adv. Aditya Mithe
a/w. Adv. Krishna Tiwari for the applicant.

Adv. Hiten Venegavkar a/w. Adv. Aayush Kedia i/b. Adv.
Pradeep Yadav, Adv. Divya Gontia for the respondent no.1 -
SFIO.

Mr. N. B. Patil, APP for the State.

CORAM : M. S. KARNIK, J.

RESERVED ON : SEPTEMBER 29, 2023.

PRONOUNCED ON : OCTOBER 3, 2023.

ORDER :

1. Heard learned senior advocate for the applicant,
learned counsel for the respondent no.1-SFIO and learned
APP for the respondent no.2-State.

2. This is an application for bail in respect of the offence
punishable under Section 447 of the Companies Act, 2013
(hereafter 'the said Act' for short) registered at the instance
of the Serious Fraud Investigation Office (hereafter 'SFIO' for

short) in Special Company Case No. 418/2022. The period in respect of which the accusations are made pertain to the year 2013 to 2016. The complaint on the basis of which the prosecution was initiated by the SFIO is dated 22/4/2022. The applicant was, however, arrested on 8/3/2022. There are in all four accused of which one is granted bail by the trial Court and one by this Court.

3. The applicant is a director of the company named Jagat Agro Commodities Pvt. Ltd. (hereafter 'JACPL' for short) which was initially incorporated in the year 1984 by the Pawa Group and in 1993, Aggarwal Group joined as the other shareholder. JACPL was primarily engaged in rice production. It is the contention of learned senior advocate for the applicant that the bank auditors carried out repeated physical verification and vide reports dated 12/2/2014, 5/12/2024, 15/6/2015 and 8/10/2025 categorically verified the physical existence of the godowns and the value of the stocks. It is submitted that last of the Forensic Audit Report dated 8/10/2015 found the losses incurred by JACPL in the year 2014-2015 to be genuine and also found no diversion of funds. While adjudicating a lis arising out of a dispute

between two shareholder groups, that is Pawa Group and Aggarwal Group in JACPL, the Company Law Board ('CLB' for short) directed SFIO to file a report with respect to the position of stock. An assertion was made by Pawa Group that stock worth Rs.201 crores was in the godowns. The Ministry of Corporate Affairs passed a formal order on 7/3/2016 in exercise of its powers under Section 212 (1) (c) of the said Act assigned the investigation into the affairs of JAPCL to SFIO. According to learned senior advocate, the order of the CLB was misinterpreted.

4. On 18/4/2016 and 16/5/2016, SFIO conducted physical verification at the company's godown and submitted its status report. During verification, SFIO took Pawa Group's declaration in CLB petition (that stock worth Rs.201 crores was in 36 godowns) as baseline and concluded that there was only 5% variation between the declared stock and the stock found in the godowns. The first investigation report dated 21/9/2016 was submitted. On 8/3/2022, the applicant was arrested by SFIO on his appearance in Special Court, New Delhi in another matter. Learned senior advocate submitted that on several occasions the applicant was

called by SFIO at Mumbai prior to his arrest and his statements were recorded. SFIO submitted a supplementary investigation report to the Ministry of Corporate Affairs on 6/4/2022. The accusation is that the applicant defrauded the bank by declaring false value of stock offered as collateral. It is, thus, the submission of learned senior advocate that the stock value of Rs.37.80 crores is arrived at based only on the statements of JACPL's employees Suresh Kumar and Siya Ram Tiwari and not on the basis of any Scientific Forensic Audit independently conducted. Learned senior advocate urged that no independent stock audit is conducted by SFIO.

5. The accusations of the SFIO primarily are that number of godowns are less than what was stated in the CLB petition filed by Pawa Group and the value of the stock is much less than that of the value of the stock worth Rs.201 crores mentioned before CLB. It is further the accusation that an amount of Rs.550 crores has gone to 'Jagat Overseas' from the account of the company which amounts to siphoning.

6. One of the point urged by learned senior advocate is

about the applicability of the said Act. It is submitted that commencement of investigation under Section 212(2) thereof and the exercise of the power of arrest under Section 212(8) and consequent prosecution under Section 447 of the said Act, all proceedings under the Companies Act, 1956 will continue to hold the field until 30/1/2019. It is, thus, the submission that once the entire proceedings were initiated on the strength of the Companies Act, 1956, there was no occasion, justification or jurisdiction with the SFIO to commence and conclude its investigations and prosecute the applicant under Section 447 of the said Act. It is then submitted that even on the same set of accusations, CBI has registered First Information Report (FIR) under Sections 420, 467, 468, 471, 120-B of the Indian Penal Code (IPC) at the instance of the bank defrauded. It is, therefore, submitted that the question is whether prosecution under Section 447 of the said Act would stand validated or not would also require adjudication at an appropriate stage. In the facts and circumstances of the present case, having regard to the view that I am inclined to take, I do not propose to delve into the aforesaid aspects of this

paragraphs which could be a subject matter of consideration in appropriate proceedings.

7. Mr. Hiten Venegavkar, learned counsel for the respondent no.1 - SFIO, vehemently opposed this application. It is submitted that the applicant is facing serious accusations of financial fraud in the company and there are materials to support the accusations. It is submitted that though the company projected that it has large number of godowns, but during investigation, it is revealed that there are much lesser number of godowns. It is further submitted that the financial statements are forged and fabricated. It is submitted that the company falsely projected that it had stocks over Rs.200 crores. However, investigation revealed that there was stock of hardly Rs.37 crores. It is submitted that the company inflated the value of its stock given as collateral to the bank and taken enhanced credit facilities from the bank. Relying on the materials, it is submitted that the monies received from the bank have then been diverted by JACPL to related parties thereby defrauding the bank. It is submitted that the investigation report and the supplementary investigation

report by SFIO reveals that the applicant was involved in day-to-day business, he has signed the stock statements and attended board meetings. During the investigation when the applicant was confronted, he could not identify all the godowns which were disclosed to the bank and CLB. It is submitted that it is the company through the applicant is responsible for the fraud worth approximately Rs.349 crores.

8. Mr. Venegavkar, placing reliance on the statements of Rajkumar dated 6/4/2022, who was the proprietor of 'Jai Shiv Trading Co.' submitted that the bills are forged by the said Raj Kumar at the behest of JACPL. It is submitted that the statement of Vinod Kumar, who is a Chartered Accountant and proprietor of 'Mukesh Vinod & Company' reveals that the stocks were overvalued. He also relied on the statement of Vikas Bansal, an employee, to show how financial irregularities are committed by the applicant. It is submitted that there is ample material in support of the accusations. It is further submitted that there is a transfer of funds to the tune of Rs.550 crores from one concern to another which amounts to siphoning. It is then submitted that having regard to the serious nature of the accusations

and as the punishment prescribed for the offence is minimum three years imprisonment, this is not a fit case to enlarge the applicant on bail on the plea of having undergone incarceration for more than 18 months. It is further submitted that adequate medical facilities are made available to the applicant and therefore, this is not a case where the applicant is entitled to be enlarged on bail on medical grounds. It is then submitted that though the properties are attached and an affidavit has been filed to indicate that part of the amount involved in the fraud can be covered up, however, this cannot be a factor for enlarging the applicant on bail having regard to the serious nature of the accusations.

9. Having heard learned counsel, while deciding the present application I must bear in mind the provisions of sub-section (6) of Section 212 of the said Act which reads thus:-

“212(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), [offences covered under section 447] of this Act shall be cognizable and no person accused of any offence under those sections shall be released on bail or on his own bond unless-

- (i) the Public Prosecutor has been given an opportunity to oppose the application for such release; and
- (ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is

not guilty of such offence and that he is not likely to commit any offence while on bail:

PROVIDED that a person, who, is under the age of sixteen years or is a woman or is sick or infirm, may be released on bail, if the Special Court so directs:

PROVIDED FURTHER that the Special Court shall not take cognizance of any offence referred to this sub-section except upon a complaint in writing made by-

- (i) the Director, Serious Fraud Investigation Office; or
- (ii) any officer of the Central Government authorised, by a general or special order in writing in this behalf by that Government."

10. From the record it is seen that the officers of the bank had conducted physical audit of the stocks of the JACPL including Forensic Audit done where stocks have been valued for over Rs.200 crores. There is a status report dated 18/4/2016 of the SFIO which mentions that there is only 5% variation in the declared stock and the stock found in the godowns during inspection. The Forensic Audit Report which SFIO is relying upon indicates that JACPL has faced genuine business losses and that there is no financial irregularities. It appears that there is no independent stock audit done by SFIO. The SFIO has arrived at value of the stock based on the statement of the store keepers and I find some substance in the contention of learned senior advocate for the applicant that SFIO did not carry out any independent forensic analysis relating to valuation of the stock.

11. So far as the accusation that Rs.550 crores have gone to 'Jagat Overseas' from the account of the company which amounts to siphoning is concerned, it appears that in the financial year 2014-2015 Rs.522.60 crores were transferred from 'Jagat Overseas' account to the account of JACPL and Rs.552.41 crores was received back from JACPL to 'Jagat Overseas'. *Prima facie*, this may be a transaction squaring up of the amount credited and debited. In my *prima facie* opinion, I am satisfied that there is a reasonable ground to believe that the offence punishable under Section 447 of the said Act may not be attracted in the present case.

12. Considering the age of the applicant and the medical condition that he suffers from, which is narrated in some detail in the later part of this order, I am satisfied that the applicant is not likely to commit any offence while on bail. The applicant, in my opinion, is also entitled to the benefit of the first proviso of sub-section (6) of Section 212 of the said Act.

13. So far as the medical condition of the applicant is concerned, learned senior advocate submitted that the applicant is suffering from several ailments such as

hypertension, diabetes mellitus, ischemic heart disease and seizure disorder. This Court had called for a medical report. The applicant was admitted in Sir J. J. Hospital at times for undergoing treatment. This Court in the order dated 3/5/2023 recorded that the report does not indicate that the sickness cannot be treated by the doctors in Sir J. J. Hospital. The order dated 21/7/2023 passed by this Court records that the applicant was admitted in Sir J. J. Hospital since 9/6/2023 and is being treated. The applicant's medical report dated 4/8/2023 reveals that the applicant is treated as per advise of Sir J. J. Hospital. The medical advice is for regular monitoring and better control of seizures. The report reveals that the applicant was referred to Sir J. J. Hospital on multiple occasions for various treatments. The present health status of the applicant as per the medical report is thus :-

“Patient continues to suffer from seizure episodes. He had 2 seizure episodes in last 15 days with 1 episode associated with fall ; he is being continued on medication as advised by Sir J. J. Hospital and symptomatic treatment from Prison Hospital. He is being kept in prison hospital for observation and supervised treatment. He complains of weakness and tingling numbness over right side of body, pain and difficulty to get up from ground. He suffers from recurrent urinary tract infection and difficulty in

micturition. He has been recently diagnosed with severe Antral Gastritis and sessile polyp (benign tumor).”

14. The applicant is 63 years of age. It is thus seen that the applicant needs constant medical treatment. No doubt the same is available and provided to the applicant at Sir J. J. Hospital and in prison hospital. However, I have no hesitation in opining that the applicant needs constant medical attention considering his age and ailment. The age and medical condition of the applicant is one of the circumstance which I have taken into consideration for enlarging the applicant on bail.

15. Chapter XXIX of the said Act contains Section 447 which provides for punishment for fraud. Section 447 reads thus:-

“447. Punishment for fraud.

Without prejudice to any liability including repayment of any debt under this Act or any other law for the time being in force, any person who is found to be guilty of fraud [involving an amount of at least ten lakh rupees or one per cent of the turnover of the company, whichever is lower], shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to ten years and shall also be liable to fine which shall not be less than the amount involved in the fraud, but which may extend to three times the amount involved in the fraud:

PROVIDED that where the fraud in question involves public interest, the term of imprisonment shall not be less than three years:

[PROVIDED FURTHER that where the fraud involves an amount less than ten lakh rupees or one per cent. of the turnover of the company, whichever is lower, and does not involve public interest, any person guilty of such fraud shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to [fifty lakh rupees] or with both.]

Explanation : For the purposes of this section -

- (i) “fraud” in relation to affairs of a company or any body corporate, includes any act, omission, concealment of any fact or abuse of position committed by any person or any other person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss;
- (ii) “wrongful gain” means the gain by unlawful means of property to which the person gaining is not legally entitled;
- (iii) “wrongful loss” means the loss by unlawful means of property to which the person losing is legally entitled.”

16. Learned senior advocate submitted that the applicant is now in custody for more than 18 months. Placing reliance on Section 447 of the said Act it is submitted that the maximum punishment for the offence is imprisonment for a term which shall not be less than six months but which may extend to ten years. *Prima facie*, I am of the opinion that

having regard to the nature of the accusations made in the case at hand, as per the first proviso to Section 447 of the said Act, the alleged fraud in question involves public interest, for which the term of imprisonment shall not be less than three years. However, the circumstance that the applicant has undergone custody as an undertrial for more than 18 months which period is equivalent to half of the minimum punishment for the offence, is the another circumstance which I am inclined to consider in favour of the applicant for enlarging him on bail.

17. One more aspect which needs consideration is an affidavit of the applicant's son which has been filed on his behalf which records thus:-

"AFFIDAVIT OF THE APPLICANT'S SON ON HIS BEHALF

I, Gaurav Aggarwal, Aged 37 years, son of Shri Sant Lal Aggarwal, presently residing at J-401, 4th floor, DLF City, Ambience Caltriona, Section-24, Gurgaon, DLF Phase-III, Gurgaon, Haryana - 122010 do hereby solemnly affirm and declare as under:-

1. I am the elder son of the Applicant Sant Lal Aggarwal who is aged about 64 years. The Applicant's family comprises of his wife Smt. Rajni Aggarwal (guarantor in Jagat Agro Commodities Private Ltd. - JACPL) who is also a senior citizen and suffering from various old age-related ailments. That apart, the Applicant has one daughter who is married and two sons namely Saurav Aggarwal (guarantor in JACPL) and Gaurav Aggarwal (guarantor & Deponent herein). While the younger son of the Applicant has a wife and 7 year old school going son, the elder son i.e. the deponent's family comprises of his wife and two minor children i.e. a daughter aged 13 years and a son aged 5 years respectively.
2. That the share of the Aggarwal Group in JACPL was merely 42%

out of which the individual shareholding of the Applicant was to the extent of 10.61% only.

3. That on account of incessant losses to the rice industry which has been widely recognized and accepted even by the government agencies, JACPL suffered huge losses and the credit facilities availed by the company from State Bank of India ("SBI") – Primary Lender and Punjab National Bank ("PNB") – Secondary Lender went away. In the present case, the accusations by the SFIO are that Rs.349 crores of the bank money having been siphoned off. The accusations are vehemently denied by the Applicant.

4. That it is a matter of record that the Bank(s) have since disposed of the properties that were mortgaged with them for the purpose of sanction/grant of credit facilities for approximately **Rs.120 Crores**. The details of these properties are as under:-

Sr.	Description of Property	Initial Approx Valuation at the time of Sanction
1	Industrial Sheds/building on a plot measuring 42 Kanals and 4 Marlas situated at 38/39 Km Stone in the area of Village Rai, Dist. Sonipat in the name of M/s Shree Balaji Agro Industries.	Rs.26.92 Crores
2.	Land & building at plot measuring 2 Bigha and 8 Biswas (2420 sq. yds) (Part of Khasra No.11/11) situated at Village Singhu near Delhi Haryana Boarder belonging to Shri Sant Lal Aggarwal & Smt. Sudha Pawa.	Rs. 2.92 Crores
3.	Land and building on plot measuring 1 Bigha and 3 Biswas) 1210 sq. yds (Khasra No.11/13/2) situated at Village Singhu (near Delhi Haryana Boarder) in the name of Shri Sant Lal Aggarwal & Smt. Sudha Pawa.	Rs.1.32 Crores
4.	Land and Building measuring 2 Bigha 3 Biswas (2167 sq. yds) (out of Khasra No.11/19), situated at Village Singhu (near Delhi Haryana Boarder) in the name of Shri Sant Lal Aggarwal and Smt. Sudha Pawa.	Rs.2.75 Crores
5.	Land & Buildingat Plot measuring 2 Bigha 3 Biswas (2167 sq. yds) (out of Khasra No.11/20) situated at Village Singhu (near Delhi Haryana Boarder) in the name of	Rs.2.75 Crores

Shri Sant Lal Aggarwal & Smt. Sudha Pawa.

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| 6. | Land & Building at Plot measuring 1 Bigha 3 Biswas (out of Khasra No.11/2) (1159 sq. yds) situated at Village Singhu (near Delhi Haryana Boarder) in the name of Shri Sant Lal Aggarwal & Smt. Sudha Pawa. | Rs.1.52 Crores |
| 7 | Land & Building at Plot measuring 1 Bigha 3 Biswas) (1159 sq. yds (out of Khasra No.11/2) situated at Village Singhu (near Delhi Haryana Boarder) in the name of Shri Sant Lal Aggarwal & Smt. Sudha Pawa. | Rs.1.52 Crores |
| 8 | Two story building with basement on a plot area of 202.28 sq. metres (241.92 sq. yds) at GD-19, Pitampura, New Delhi in name of JACPL. | Rs.9.11 Crores |
| 9 | Land & building on Plot measuring 15 Bighas 10 Biswas (Farm House) situated at Revenue Estate of Village Khera Kalan, & Nangti Poona, Delhi, in the name of Smt. Raini Goel (wife of Shri Sant Lal Aggarwal) and Ms. Swati Pawa. | Rs.11.20 Crores |
| 10 | Land & Building at Plot measuring 2 Bighas 6 Biswas (out of Khasra No.11/2 qmin) (1-5) and 9 min. (1-1) (2319 sq. yds) situated at Village Singhu (near Delhi Haryana Boarder) in the name of Shri Sant Lal Aggarwal & Smt. Sudha Pawa. | Rs.2.68 Crores |
| 11 | Plot no.78, Block B, Pocket-10, Sector - 13 Dwarka New Delhi measuring 222.40 sq. mtrs (266 sq. yds) in the name of M/s Jagat Overseas (partnership firm). | Rs.5.99 Crores |
| 12 | Plot No.390, Sector 19, Dwarka, New Delhi, measuring 1785 sq. mts in the name of M/s. Jagat Overseas. | Rs.4.70 Crores |
| 13 | Second Floor at Plot No.287, Tarun Enclave Pitampura, Delhi measuring 178 sq. yds in the name of Gaurav Agarwal s/o Sh. Santlal Agarwal. | Rs.3.11 Crores |
| 14 | First floor at Plot No.287, Tarun Enclave | Rs.3.18 Crores |

Pitampura, Delhi measuring : 178 sq. yds.
In the name of Gaurav Agarwal s/o. Sh.
Santlal Agarwal.

- | | | |
|----|--|-----------------|
| 15 | Ground Floor at Plot No.287, Tarun Enclave Pitampura, Delhi, measuring 178 sq. yds in the name of Shri Sant Lal Agarwal. | Rs.4.45 Crores |
| 16 | Basement at Plot No.287, Tarun Enclave Pitampura, Delhi measuring 178 sq. yds in the name of Gaurav Agarwal s/o Sh. Santlal Agarwal. | Rs. 1.20 Crores |
| 17 | Agricultural Land measuring 2 Bigha 28 Biswa part of Khasra No.11/24 (2-18), Village Singu, Delhi - 4 in the name of Sant Lal Agarwal. | Rs. 2.70 Crores |
| 18 | Agricultural Land measuring 1 Bigha part of Khasra No.11/1 (120), Village Singu, Delhi - 4 in the name of Sant Lal Agarwal. | Rs.1.02 Crores |
| 19 | Agricultural Land measuring 2 Bigha 2 Biswa part of Khasra No.11/18 (2-2), Village Singu, Delhi - 4 in the name of M/s Satish Pawa. | Rs.2.15 Crores |
| 20 | Agricultural Land measuring 1 Bigha 11 Biswa part of Khasra No.11/19 (1-11), Village Singu, Delhi - 4 - in the name of JACPL. | Rs.1.85 Crores |
| 21 | Agricultural Land measuring 1 Bigha 3 Biswa part of Khasra No.11/2 (1-3), Village Singu, Delhi - 4 - in the name of Satish Pawa. | Rs. 1.18 Crores |
| 22 | 408, HSIIDC, Industrial Estate, Rai, Sonipat Haryana | Rs. 12 Crores. |

5. That the record also reveals that on the basis of the FIR registered by the CBI for offences u/s. 120-B, 420, 467, 468 & 471 IPC vide RC2202020E0013 dated 27.5.2020 and on account of the invocation of Section 447 of Companies Act, 2013 by the SFIO in the instant case, the Enforcement Directorate ("ED") has also commenced its investigations under PMLA vide ECIR /14/MBZO-1/2021 dated 31.3.2021. During the process of such investigations, the ED has since provisionally attached the following assets vide PAO No. 17/2022 dated 24.11.2022, which was confirmed by the Adjudicating Authority vide

order dated 10.05.2023 in OC 1859/2022:

Sr.	Description of Property	Valuation taken by ED
1.	Flat No.819, 8 th floor, Amba Deep Building, 14 Kasturba Gandhi Marg, New Delhi measuring 562 Sq. Ft. in the name of JACPL.	15,18,173/-
2	Flat No.801, 8 th floor, Amba Deep Building, 14 Kasturba Gandhi Marg, New Delhi measuring 360 Sq. Ft. in the name of JACPL.	21,00,000/-
3	Flat No.802, 8 th floor, Amba Deep Building, 14 Kasturba Gandhi Marg, New Delhi measuring 456 Sq. Ft. in the name of JACPL.	12,31,827/-
4	Flat No.803, 8 th floor, Amba Deep Building, 14 Kasturba Gandhi Marg, New Delhi measuring 445 Sq. Ft. in the name of JACPL.	2,33,62,500/-
5	Office Space no. 328, D. Mall, Plot No.1B5, Twin District Centre, Sector - 10, Rohini, Delhi 110 085 (Lease hold property) in the name of M/s. Jagat Overseas.	17,01,35,000/-
6	Office Space No.321, D. Mall, Plot No.1B5, Twin District Centre, Sector - 10, Rohini, Delhi 110 085 (Lease hold property) in the name of M/s. Jagat Overseas.	19,51,25,000/-
7	Khewat No.601/531/439, Khasra 88/13 & 14, area - 12 kanal, Village Kundli, Tehsil - Rai, Dist. - Sonipat, Haryana vide deed registration no.9369.	73,75,000/-
Total provisional attachment confirmed in OC 1859/2022 vide order dated 10.05.2023 (this value may be lesser than the fair market value)		38.86 Crores

6. That vide another PAO No. 11/2023 dated 27.7.2023, further immovable assets have been attached by the ED, the total value whereof is said to be approximately **Rs. 10.50 Crores**. The said PAO is pending adjudication before the Adjudicating Authority, Delhi.

7. That **therefore, the total attachment by the ED comes to Rs. 49.36 Crores**. As stated above, the value accorded by the ED may be less than the fair market value

8. That apart from the above, it is further humbly submitted that the following properties of approximately **Rs. 37.25 Crores** or more have

been offered to the bank after mutual discussions for the purpose of arriving at a One Time Settlement ("**OTS**") of the entire dues, the details whereof are as under: -

Properties offered under OTS proposal dated 12.05.2023 to the Bank towards satisfaction of entire outstanding debt:

S. No.	Description	Owner
1.	Agricultural land measuring 50 kanal 17 marla (33184 sq. yds Kila No.76/21/BG), 76/21/1(3-10), 76/23/2 (5-10), 78/24/1/1(3-6), 88/2(8-0), 88/7 (8-0), 88/9 (8-0), 88/8 (7-13, 85/10/2 (2-18) situated in village Kundli District, Sonapat (Haryana).	JACPL
2.	Agricultural land at village Kohand, Tehsil Gharaunda, District Karnal, Haryana, Khewat no.132, Khatoji No.235, Murabba no.14, Kila no.11/2 area measuring 1 kanal 10 marla.	JACPL
3.	Agricultural land at village Khoand, Tehsil Gharaunda, Dist. Karnal, Haryana. Khewat no. 152 measuring 5 Kanal 7 Marla.	JACPL
4.	Agricultural land situated at Karnal, Haryana, Khewat no. 132, khatoni 238 admeasuring 75 kanal, 12 marla	JACPL
5	Agricultural land situated at Singhu Border, Delhi Khasra no:8/2, 11/1.	JACPL

9. That total OTS Proposal after mutual discussion with the Bank is for an amount of **Rs. 37.25 Crores** which includes the value of the above unsold/unattached properties. This proposal is under active consideration by the Bank which is evident from its email correspondence dated 09.08.2023 which reads as under:

"With reference captioned subject, you are requested to provide us LEI number of above company to expediate your request in the system. Please, Cooperate"

10. That the Applicant or his family would have absolutely no objection for the bank to dispose of the aforementioned assets so as to realize its dues.

11. That the Applicant and his family members including his wife and two sons namely Gaurav Aggarwal and Saurav Aggarwal stand as guarantors in JACPL wherein bank has already initiated recovery proceedings since 2017. It is humbly submitted that majority of including as well as individual assets are already auctioned and the remaining proceedings against all the family members are undertaken

by SBI.

12. That it is humbly submitted that during the course of hearing of SA/40/2018 titled as "Jagat Agro Commodities Pvt. Ltd. V/s State Bank of India" pending adjudication before Debt Recovery Tribunal (DRT-III), New Delhi, respective statements have been made by the counsel for the Company and the bank accepting that the likelihood of matter being finally settled with the Bank, in this context, the relevant contents of the order 08.08.2023, passed by the DRT relevant extract of the order reads as under:

"3.Ld. Counsel for S. applicant submitted that the matter is under settlement between the parties and there is every likelihood that the matter will be settled between the parties".

"4.Ld. Counsel for respondent no. 1 has also conceded the statement made by Ld. Counsel for S.Applicant and made a request to adjourn the matter for next 3- weeks to ensure outcome of settlement proposal given by S.Applicant".

13. That it is evident that the Bank is actively considering the OTS Proposal at an advance stage and therefore, there is every likelihood of burial of the entire dispute.

14. That it is humbly submitted that the bank is actively considering the proposal for OTS and if that fructifies, the entire liability of the company would come to an end. In any event, it is noteworthy that the Pawa Group has almost equal shareholding and therefore, the same may also be an equitable factor for consideration by this Hon'ble Court.

15. That it is further humbly submitted that insofar as the personal assets of the applicant and his family are concerned, they are left with virtually nothing as everything has gone towards the payment of debts and satisfying the lenders. So much so, they do not even have their own house to live in and have been living in rented accommodation for the last more than 5 years. The only remaining assets with the family are the personal jewelry of the three ladies i.e., the wife of the Applicant and his two daughters-in-law which would come out to be approximately Rs. 1.10 Crores. The family is ever ready to place this entire jewelry as security with the Learned Trial Court during the pendency of the Trial and/or subject to any direction that may be issued by this Hon'ble Court.

16. That the Applicant further humbly beseeches this Hon'ble Court to grant him indulgence and release him on bail so that he may make all out efforts to fructify the OTS and generate all other resources to settle the entire matter.

17. That the Applicant further undertakes to furnish adequate surety for the purpose of bail and may be able to persuade his relatives etc. to

furnish a surety having valuation of upto Rs. 5 Crores for the purpose of releasing him on bail within such time frame/period that this Hon'ble Court may deem fit."

18. In paragraph 17 of the affidavit, though it is stated that the applicant is willing to furnish a surety having valuation of upto Rs.5 crores for the purpose of releasing him on bail, on behalf of the applicant, learned counsel on instructions of the applicant through his son who is personally present in the Court submitted that a sum of Rs.5 crores will be deposited with the Special Court by way of Fixed Deposit in the name of the concerned Registrar/ Superintendent of the Special Court within a period of two months from the date of the applicant's enlargement on bail. The statement is accepted as an undertaking to this Court. The affidavit to that effect be filed by the applicant in this Court before his release. Registry to accept. The said deposit will abide by the orders passed by the Special Court.

19. The applicant is in custody for more than 18 months with no possibility of the trial concluding any time soon. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. The applicant does not appear to be a flight risk.

Further incarceration will only be by way of a pre-trial punishment. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Sant Lal Aggarwal in connection with C.R. No. SFIO/INV/JACPL/473/2016 registered with Serious Fraud Investigation Office, Mumbai and in Special Company Case No.418 of 2022, shall be released on bail on his furnishing P.R. Bond of Rs.1,00,000/- with one or more local sureties in the like amount.
- (c) The applicant shall attend the Serious Fraud Investigation Office, Mumbai, once in a month on every Saturday of the month between 11.00 a.m. to 1.00 p.m. till the trial concludes.
- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.
- (e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

- (f) The applicant shall attend the trial regularly.
- (g) The applicant shall surrender his passport, if any, with the Special Court if not already surrendered.
- (h) The applicant shall not leave the country without the permission of the Special Court.
- (i) The applicant shall file the affidavit as an undertaking hereinbefore and abide by the statements made in the affidavit dated 27/9/2023 filed by his son in this Court as well as the affidavit which is to be filed before his release.

20. The aforesaid observations are prima facie in nature expressed in view of the mandate of Section 212(6) of the said Act and the same shall not influence the Special Court while trying the special case.

21. The application is disposed of.

(M. S. KARNIK, J.)