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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-22476-2021 (O&M)

Date of decision: July 13, 2023

Rajiv Rattan Dhingra

....Petitioner

versus

Enforcement Directorate, Jalandhar Zonal Office

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Sandeep Arora, Advocate for petitioner.Mr. Satyapal Jain, Additional Solicitor General of India with
Ms. Sharmila Sharma, Senior Panel Counsel for respondent-UOI.

ARUN MONGA, J. (ORAL)

Petitioner, seeks bail in complaint case No.COMA/2/2020 dated 29.10.2020 titled as “Directorate of Enforcement versus Neeraj Thatai @ Neeraj Arora” filed by the Enforcement Directorate under Section 45 read with Section 44 of the Prevention of Money Laundering Act, 2002 (for short ‘PMLA Act’) for commission of the offence under Sections 3, 4 of the PMLA Act.

2. Per prosecution version, many immovable properties were purchased by Neeraj Thatai which were later on subject of benami proceedings before the Income Tax Department and notice under PMLA Act was issued to the petitioner for 01.02.2021 after filing of complaint. Due to non-appearance in the Court, non-bailable warrants were issued against the petitioner and he was subsequently, arrested by the Police on 04.03.2021.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case. Petitioner is running a printing press in Krishna Nagar at Abohar. Petitioner had undertaken printing work of M/s Natureway and M/s Nature Heights Group of companies. Petitioner is neither Director nor shareholder or employee of any of the aforesaid companies. He has nothing to do with the alleged offence. He submits that co-accused of the petitioner were granted interim bail vide order dated 30.07.2021, and

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subsequently, the said interim bail was also made absolute vide orders dated 10.04.2023 and 26.04.2023 by a co-ordinate Bench of this Court. He submits that vide order dated 30.07.2021, petitioner was also granted interim bail. He submits that petitioner has neither jumped the bail nor has even on a single occasion, caused any default in appearance before the Court below. Trial is proceeding further on a snail pace as out of total 47 witnesses, only 17 are examined till date.

4. On the other hand, learned counsel for the respondent-UOI opposes the bail petition. He submits that petitioner has committed a serious offence and specific role has been attributed to petitioner in the fraud being prosecuted in the criminal complaint.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. Vide order dated 30.07.2021, following order was passed by a co-ordinate Bench of this Court presided over by my learned brother H.S. Madaan. J., as he then was seized on the matter:

“Learned counsel for the respondent has stated that an SLP (Crl.) No.003474 of 2020 is listed before the Apex Court for today itself and the decision therein may have some bearing on these petitions. I find it proper and appropriate to await the said decision.

Learned counsel for the petitioners in CRM-M-15328-2021, CRM-M-14985-2021, CRM-M-20174-2021 and CRM-M-21356-2021 for pre-arrest bail of petitioners namely Manish Bansal, Hakam Chand, Pushpinder Pal, Sumit Dang, Vinod Kumar and Sandhya Wadhwa state that the petitioners are ready and willing to appear in the trial Court and render full cooperation to the complainant in matter of enquiry/investigation and they be given an opportunity to do so. The next date of hearing in the trial Court is said to be 10.8.2021.

Under the circumstances, I find it proper and appropriate to direct the petitioners in petitions for pre-arrest bail to put in appearance in the trial Court at the earliest and to join the proceedings there. Accordingly such petitioners are directed to appear in the trial Court within five days from today. On their doing so, they be released on interim bail subject to satisfaction of the trial Court. All such petitioners shall surrender their Passports in the trial Court and if anyone of them is not holding Passport then in that eventuality an affidavit would be furnished in that regard which be made part of the record. Such petitioners shall render full cooperation in the enquiry/investigation which may be conducted in the matter by the complainant department and then intimation in that regard be given to this Court by the next date of hearing fixed as 24.9.2021. It is made clear that this order granting interim bail to the petitioners would not confer any valuable right upon the petitioners for grant of pre-arrest bail. With regard to petition for regular bail i.e., CRM-M-22476-2021 filed by petitioner Rajiv Rattan Dhingra, it would be also taken up for hearing on the date fixed. However, considering the fact that co-accused of petitioner Rajiv

Rattan Dhingra have been granted interim anticipatory bail on the ground of parity and considering the other facts and circumstances, he be released on interim regular bail on the following conditions:

- (i) he shall appear in the Court on each and every date of hearing.*
- (ii) he shall not give any threat or intimidation to the prosecution witnesses.*
- (iii) he shall not leave India without prior permission of the Court and shall surrender his Passport, if he has got one, otherwise to furnish affidavit in that regard.*
- (iv) he shall not indulge in any criminal activity.*

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

7. Pursuant thereto, petitioner has been stated to be regularly appearing before the Court below without having any default on any occasion. Out of total 47 witnesses, 17 are stated to have been examined till date. Trial is likely to take long time. Co-accused have also been granted concession of bail vide orders dated 10.04.2023 and 26.04.2023 while making absolute interim bail order dated 30.07.2021 *ibid*. On the ground of parity, I am of the view that petitioner is entitled to be released on bail.

8. Additionally, primary purpose of bail is to ensure the accused person's appearance in Court for their trial. By providing bail, the Court seeks to guarantee that the person will attend all necessary Court proceedings and not flee or become a flight risk. In the instant case, there is no likelihood that petitioner might flee or not appear in Court if released on bail. It is stated that petitioner is 54-year old and is running a printing press. He is also suffering from heart problems. He is stated to be a sole-bread winner of the family and his two children are still dependent on him.

9. That apart, the alleged crime purportedly committed by the petitioner is non-violent in nature. In case, he is released on bail, there is no likely threat to the society. Since challan has been filed and trial has commenced, petitioner is not required for any custodial interrogation.

10. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed.

11. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is

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being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

12. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.

13. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.

14. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 13, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No