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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 1st September, 2023

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BAIL APPLN. 1578/2023
NAVPREET SINGH

..... Petitioner

Through: Mr. Sunil Dalal, Senior Advocate
with Mr. Navish Bhati, Mr. Mahabir
Singh, Ms. Manisha Saroha, Mr.
Khushwant Singh Dhanda, Mr. Sudhir
Kumar, Mr. Shubham and Mr. Vishal
Bhardwaj, Advocates.

versus

STATE THROUGH SHO

..... Respondent

Through: Mr. Aman Usman, APP for State with
SI Gaurav, P.S. EOW.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT

AMIT SHARMA, J.

1. The present application under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 ('CrPC') seeks regular bail in case FIR No. 62/2018, under Sections 406/409/419/420/467/468/471/120B of the Indian Penal Code, 1860 ('IPC'), registered at P.S. Economic Offences Wing ('EOW').



2. It is pertinent to note that by separate judgments of same date, this Court has disposed of two other bail applications preferred by the present applicant, i.e., BAIL APPLN. 1575/2023 in relation to case FIR No. 65/2018, under Sections 406/409/419/420/467/468/471/120B of the IPC, registered at P.S. EOW and BAIL APPLN. 1075/2023 in relation to case FIR No. 63/2018, under Sections 406/409/419/420/467/468/471/120B of the IPC, registered at P.S. EOW. The allegations in the said FIRs are similar to ones in the present case.

3. The case of the prosecution as per status report dated 28.07.2023, authored by Mr. Ramesh Kumar Narang, Assistant Commissioner of Police, Economic Offences Wing, Delhi, is as under:

“2. That the brief facts of the case are that one Amandeep Singh S/o Sh. Ajit Singh R/o H No. BH-256, First Floor, East Shalimar Bagh, ND-110088, sole proprietor of M/ s Singh Exports having its office at BA-83, First Floor, Shalimar Bagh, Delhi-110088 had obtained cash credit limit worth Rs 80 Lakh and term loan worth Rs 15 Lakh from the bank in the name of his above-mentioned firm bearing loan A/c No. 0147008700001862 for purchase of plant and machinery.

3. That the above said credit facility was availed by Amandeep Singh by hypothecating the stocks, plant, machinery and other assets. However, at the time of multiple visits by bank officials, they were not available at the given address of the firm. The firm namely M/s Nidhi Traders, bearing current A/c No. 08991100076886 with Punjab & Sind Bank, Shalimar Bagh, New Delhi in favour of which the draft for payment towards purchase of the plant and machinery was issued by the bank, at the instance of the borrower, does not exist and it was found that forged bills were submitted by the borrower. Following it, the firm started defaulting in the repayment of the loan amount was running irregular, and was classified as a Non-Performing Asset (NPA) w.e.f. 09-06-2016.

4. That, during the course of Investigaton, the complainant was examined and relevant documents related to the sanction of the cash credit facility



to M/s Singh Exports (Prop. Amandeep Singh) were seized. On perusal of the said documents, the following facts emerged: -

- a) A cash credit facility worth Rs 80 Lacs was sanctioned by the complainant bank to M/s Singh Exports (Amandeep Singh) vide sanction letter dated 05.12.2014
- b) A term loan for Rs 15 Lakhs was sanctioned vide letter dated 08.05.14 and a sum of Rs 17.1 Lakh was released in favor of M/ s Nidhi Traders for purchasing some machinery against quotation and bills provided by M/ s Nidhi Traders
- c) Against these facilities, the borrower had signed hypothecation agreement of goods and book debts in favor of the complainant bank.
- d) No security was created against the said term loan.
- e) Further, the amount provided by the complainant bank as Term Loan has been used by the borrower for his personal benefits.
- f) The money was credited in a current account maintained in the name of M/ s Nidhi Traders, Punjab & Sindh Bank, Shalimar Bagh, New Delhi vide DD No. 608075 dated 09.07.2013 for Rs. 17,10,1000/- . The proprietor of M/ s Nidhi Traders is Harjit Singh, who is also the proprietor of OTB Enterprises and both the finns are physical not in existence.

4. As per the aforesaid status report, the role of the present applicant is as under:

“6. Role of petitioner Navpreet Singh: -

- Navpreet Singh was the Direct Sales Agent who used to introduce the loan borrowers to co-accused persons Harjit Singh and Rajiv Kumar Nigam.
- Navpreet Singh used to help the loan borrowers to create the forged and fabricated documents to avail the cash credit facility.
- Navpreet Singh was the beneficiary of the loan amount of Rs. 2,84,980/- and there are multiple transactions in the forged account of M/s Nidhi Traders which proves his active connivance in the said matter.

5. Learned Senior Counsel appearing on behalf of the applicant submitted



that the present applicant was arrested in the present FIR on 30.09.2022. It was further submitted that investigation in the present FIR is complete, the chargesheet stands filed and the matter before the learned Trial Court is still at the stage of consideration on charge. It was further submitted that so far as the allegation of forgery is concerned, the only evidence with respect to the same, as claimed by the prosecution, is in the nature of disclosure statements. It was submitted that Amandeep has deposited a sum of Rs. 30 lakhs, i.e., 1/3rd of the allegedly cheated amount. It was submitted that co-accused Jagdish Chand Sharma and Tarvinder Singh have been chargesheeted without arrest. It was further submitted that other co-accused persons, namely, Bablu, M/s Simar, M/s Push Manjit, Blue Seal, Baba Metal, RB Company and Threads and Bends have not been chargesheeted.

6. *Per contra*, learned APP for the State opposed the present bail application and submitted that the allegations *qua* the present applicant and co-accused persons are serious in nature and they have committed huge fraud with the complainant. The sum of Rs. 2,84,980/- has come into account of the present applicant. It is pointed out that similar FIRs registered at PS EOW are pending against the present applicant.

7. Heard learned counsel for the parties and perused the record.

8. In **Satender Kumar Antil v. CBI, (2022) 10 SCC 51**, the Hon'ble Supreme Court held as under:

Economic offences (Category D)

90. What is left for us now to discuss are the economic offences. The question for consideration is whether it should be treated as a class of its own or otherwise. This issue has already been dealt with by this Court in *P. Chidambaram v. Directorate of Enforcement* [*P. Chidambaram v. Directorate of Enforcement*, (2020) 13 SCC 791 : (2020) 4 SCC (Cri)]



646] , after taking note of the earlier decisions governing the field. The gravity of the offence, the object of the Special Act, and the attending circumstances are a few of the factors to be taken note of, along with the period of sentence. After all, an economic offence cannot be classified as such, as it may involve various activities and may differ from one case to another. Therefore, it is not advisable on the part of the court to categorise all the offences into one group and deny bail on that basis. Suffice it to state that law, as laid down in the following judgments, will govern the field:

Precedents

91.*P. Chidambaram v. Directorate of Enforcement* [*P. Chidambaram v. Directorate of Enforcement*, (2020) 13 SCC 791 : (2020) 4 SCC (Cri) 646] : (SCC pp. 804-805, para 23)

“23. Thus, from cumulative perusal of the judgments cited on either side including the one rendered by the Constitution Bench [*Gurbaksh Singh Sibbia v. State of Punjab*, (1980) 2 SCC 565 : 1980 SCC (Cri) 465] 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 provide 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.”**

92.*Sanjay Chandra v. CBI* [*Sanjay Chandra v. CBI*, (2012) 1 SCC 40 : (2012) 1 SCC (Cri) 26 : (2012) 2 SCC (L&S) 397] : (SCC pp. 62-64, paras 39-40 & 46)

“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.

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.”

Role of the court

93. The rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. **We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice.**

94. Criminal courts in general with the trial court in particular are the guardian angels of liberty. Liberty, as embedded in the Code, has to be preserved, protected, and enforced by the criminal courts. Any conscious failure by the criminal courts would constitute an affront to liberty. It is the pious duty of the criminal court to zealously guard and keep a consistent vision in safeguarding the constitutional values and ethos. A criminal court must uphold the constitutional thrust with responsibility mandated on them by acting akin to a high priest.”

(emphasis supplied)

9. In **Sanjay Chandra v. CBI, (2012) 1 SCC 40**, the Hon’ble Supreme Court 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.”

(emphasis supplied)

10. The material *qua* the present applicant in relation to allegations of forgery is based on the disclosure statement of the co-accused recorded during investigation. The role of the applicant, as per the status report is that he was a direct sales agent, who introduced co-accused Gurmeet Singh @ Harpreet Singh to co-accused persons Harjeet Singh and Rajiv Kumar Nigam. The evidence against the applicant is documentary in nature. The documents demonstrating the alleged chain of transactions have been recovered and are in possession of the investigating agency. The applicant is also stated to be on bail a similar FIR bearing No. 55/2018, under Sections 420/419/406/468/471/120B of the IPC registered at P.S. EOW, South-East.



The present applicant was given the benefit of interim bail. He is stated to have complied with the conditions of the said interim bail and duly surrendered upon its expiry. The investigation in the present case is complete and the chargesheet stands filed. The trial is still at the stage of consideration on charge and is likely to take a long time to conclude.

11. As per nominal roll dated 03.08.2023, the applicant has been in judicial custody for 08 months and 23 days since 30.09.2023. The nominal roll reflects that the applicant was released on interim bail on 18.06.2023 and he duly surrendered after its expiry.

12. In totality of the facts and circumstances of the case, the present application is allowed.

13. The applicant is admitted to bail upon his furnishing a personal bond in the sum of Rs. 50,000/- alongwith one surety of like amount to the satisfaction of the learned Trial Court/Link Court, further subject to the following conditions:

- i. The memo of parties shows that the applicant is residing at H. No. WZ-15, Gali No. 14, Ratan Park, Ramesh Nagar, New Delhi. In case of any change of address, the applicant is directed to inform the same to the learned Trial Court and the Investigating Officer.
- ii. The applicant shall not leave India without the prior permission of the learned Trial Court.
- iii. The applicant is directed to give all his mobile numbers to the Investigating Officer and keep them operational at all times.
- iv. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witnesses in any manner.



- v. The applicant shall join the investigation, as and when required by the Investigating Officer.
 - vi. In case it is established that the applicant tried to tamper with the evidence, the bail granted to the applicant shall stand cancelled *forthwith*.
14. The application stands disposed of along with all the pending application(s), if any.
15. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case.
16. Let a copy of this judgment be communicated to the concerned Jail Superintendent.
17. Judgment be uploaded on the website of this Court, *forthwith*.

AMIT SHARMA
JUDGE

SEPTEMBER 01, 2023/bsr