

\$~33

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 4330/2022, CRL.M.A. 17734/2022

AARTI SINGAL

..... Petitioner

Through: Mr. N. Hariharan, Sr. Adv. with Ms. Ranjana Roy with Mr. Ujjawal Jain, Ms. Shambhavi Kashyap, Mr. Varun Deswal, Mr. Siddharth S. Yadav, Ms. Punya Rekha Angora, Mr. Prateek Bhalla, Mr. Sharian Mukherji and Mr. Mohd. Qasim, Advs.

versus

SERIOUS FRAUD INVESTIGATION OFFICE Respondent

Through: Ms. Kunjala Bhardwaj and Mr. Adeel Sherwani, Advocates for Mr. Kirtiman Singh, CGSC

%

Date of Decision: 19th January, 2023

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. The present petition has been filed seeking following prayers:

a) Pass necessary order and direction thereby setting aside the impugned order dated 18.07.2022 passed by the Ld. Spl. Judge (Companies Act) Dwarka in the matter “SFIO Vs. Bhushan Airways Services Pvt Ltd” Bearing CC No.374/2022 whereby Application seeking modification of condition imposed in Para 41(v) of the bail order dated 28.03.2022 was dismissed.

AND

b) Pass Necessary Order and Directions whereby modifying the condition imposed at Para 41(v) of the order dated 28.03.2022 passed by the Ld. Spl. Judge (Companies Act) Dwarka in the matter “SFIO Vs. Bhushan Airways Services Pvt Ltd” Bearing CC No.374/2022 which requires the Petitioner to take prior permission of the Ld. Special Judge Court, Dwarka Court in order to travel outside NCR of Delhi .

2. Sh. N. Hariharan, learned senior counsel for the petitioner submits that the learned Trial Court granted the bail to the petitioner vide order dated 28.03.2022. The bail was granted subject to the following conditions:

41. That being the scenario, this is a fit case for grant of bail. Considering the totality of the facts and circumstances of the case in hand, following order is passed:-

(i) the applicant/accused is admitted to bail on her furnishing PB each in the sum of Rs.10,00,000/- with one surety in the like amount;

(ii) the applicant/accused shall visit office of SFIO daily for the next 20 working days. She will appear before the IO at 10.00 am and would have after conclusion of the proceedings of the day. Subsequent] y for the next two weeks, she would appear thrice i.e. on Mond0y, Wednesday and Friday whereafter she would appear twice i.e. Monday and Friday for the next two weeks; needless to submit that she will join the investigation as and when directed by SFIO/IO.

(iii) the applicant/accused shall drop google pin of her mobile number and her location ON and furnish the same to the IO concerned for the next six months;

(iv) the applicant/accused shall not try to contact/influence the complainant/witnesses in any manner whatsoever;

(v) the applicant/accused shall not go out of NCR of Delhi without the permission of the Court.

(vi) she will surrender the passport to the IO within two working days. Department can also issue LOC qua her if deemed fit.

3. Learned senior counsel for the petitioner submits that the condition No. 5 which says that the applicant/accused shall not go out of NCT of Delhi without the permission of the Court is causing a lot of inconvenience to the petitioner.
4. Learned senior counsel submits that two married daughters of the petitioner live in Mumbai and she has to go regularly to the Mumbai and every time she is being put to inconvenience to seek permission of the Court. Learned senior counsel submits that this condition is unreasonable and may be set aside.
5. Ms. Kunjala Bhardwaj, learned counsel for the petitioner has vehemently opposed the petition. Learned counsel submits that the investigation is still continuing and if this condition is waived, there is possibility that the petitioner may not join the investigation.
6. Learned counsel submits that the similar application being moved by the petitioner before the learned Trial Court has been dismissed by a reasoned order and therefore there is no reason for this Court to

interfere in the order of the learned Trial Court.

7. I have considered the submissions. Without going into the merits of the case, I consider that the condition that the petitioner shall not travel beyond the NCR without the permission of the Court is slightly unreasonable. The petitioner is a lady having married daughters in the Mumbai. It has repeatedly been held by this Court and the Superior Court that the conditions imposed while granting the bail should not be unreasonable. The reason for imposing the condition while granting the bail is that the accused may not misuse the liberty of the bail and should remain available with for the purpose of investigation or trial.
8. Hon'ble Supreme court in *Guddan @ Roop Narayan vs State Of Rajasthan | 2023 LiveLaw (SC) 45* held that Excessive conditions cannot be imposed while granting bail/ suspension of sentence. It is settled proposition that the excessive conditions imposed in practical manifestation, act as a refusal to the grant of bail. The conditions of bail should not be so onerous that their existence itself tantamounts to refusal of bail. Jail is the exception and grant of bail is the rule and in such a scenario, the conditions imposed on bail must not be unreasonable.
9. I consider that this condition imposed by the learned Trial Court is harsh. Thus, the condition No. 5 in para- 41 of order dated 28.03.2022 is modified to the extent that the petitioner in case of travelling beyond NCR and within the country will inform the learned Trial Court.

10. In view of the above, the present petition stands disposed of.

DINESH KUMAR SHARMA, J

JANUARY 19, 2023

Pallavi

