



2024:DHC:1478



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

Date of decision: 23.02.2024

+ **BAIL APPLN. 2168/2022**

ANURAV JAJU

..... Petitioner

Through: Mr.J.Sai Deepak, Mr.Pranav
Proothi, Ms.Manasi
Chatpalliwar & Mr.Aditya
Singh, Advs.

Versus

STATE OF NCT DELHI & ANR.

..... Respondents

Through: Mr.Aman Usman, APP with
Insp. Dheeraj Kumar, EOW.
Mr.Abhishek Gupta,
Mr.Nishant Anand &
Ms.Gunjan Bansal, Advs. for
the Complainant.

+ **BAIL APPLN. 2171/2022 & CRL.M.A. 28874-75/2023**

RITU JAJU

..... Petitioner

Through: Mr.J.Sai Deepak, Mr.Pranav
Proothi, Ms.Manasi
Chatpalliwar & Mr.Aditya
Singh, Advs.

Versus

STATE OF NCT DELHI

..... Respondent

Through: Mr.Aman Usman, APP with
Insp. Dheeraj Kumar, EOW.
Mr.Abhishek Gupta,
Mr.Nishant Anand &
Ms.Gunjan Bansal, Advs. for
the Complainant.

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BAIL APPLNs. 2168/2022, 2171/2022 & 2800/2022

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+ **BAIL APPLN. 2800/2022**

NEERAJ JAJU

..... Petitioner

Through: Mr.J.Sai Deepak, Mr.Pranav
Proothi, Ms.Manasi
Chatpalliwar & Mr.Aditya
Singh, Advs.

Versus

STATE OF NCT DELHI & ANR.

..... Respondents

Through: Mr.Aman Usman, APP with
Insp. Dheeraj Kumar, EOW.
Mr.Abhishek Gupta,
Mr.Nishant Anand &
Ms.Gunjan Bansal, Advs. for
the Complainant.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. These applications have been filed under Section 438 read with Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') seeking grant of anticipatory bail in FIR No. 0041/2022 registered with Police Station: Economic Offences Wing, Delhi under Sections 409/420/467/468/471/120-B of the Indian Penal Code, 1860 (in short, 'IPC').

Complaint:

2. The abovementioned FIR has been registered on a complaint made by one Smt.Sarla Sarda, stating that she is one of the Directors and Shareholders of M/s Shree Narsingh Educational Consulting Private Limited (in short, 'M/s SNECPL'). She stated that she is not involved in the day-to-day



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affairs of the said company. In the month of September 2021, she received a letter dated 11.09.2021, from M/s Cholamandlam Investment and Finance Company Limited (in short, 'CIFCL') wherein she was informed that she along with five other persons had availed a Home Equity Loan vide loan account number mentioned therein and the same had been declared as Non-Performing Asset (in short, 'NPA'). She was further informed that the said loan account had an outstanding amount of more than Rs.5 crores.

3. She states that, on inquiry, it was discovered that two different loans were obtained in the name of M/s SNECPL from CIFCL vide sanction letters dated 30.05.2019 and 07.08.2020. She stated that her signatures had been forged on the loan agreement.

4. For obtaining the said loans, the property of M/s.SNECPL, which was worth around Rs.10 crores, had been mortgaged with the bank.

5. As she made specific allegations against the applicants herein of having forged her signatures on these loan agreements, fearing arrest, the applicants filed the present bail applications.

Averments in the applications:

6. The applicants urge that the dispute between the applicants and the complainant is a family dispute and it is



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being given a colour of criminal prosecution by the complainant at the behest of the son of the complainant.

7. It was asserted that the father of the applicant- Ms.Ritu Jaju, that is, late Sh.Keshav Sarda, had purchased the property in the name of M/s SNECPL for the purpose of investment and eventually for building a school. The construction on the aforesaid property started in the middle of 2017 and, in fact, was completed before the deadline of March 2018 provided for the completion of the construction. It is further stated that as the father of Ms.Ritu Jaju was suffering from cancer, the medical expenses and even expenses for the construction on the said property of M/s SNECPL were borne by the applicants.

8. It is stated that 51% share in M/s SNECPL were transferred by late Sh. Keshav Sarda in favour of the applicants, that is, Ms.Ritu Jaju and Mr.Neeraj Jaju. Mr. Keshav Sarda unfortunately died in November 2018 due to his illness.

9. It is further alleged that faced with financial constraints, the Directors of the Company, including Smt.Sarla Sarda, who is the mother of the applicant / Ms.Ritu Jaju, applied for a loan from CIFCL. The loan was duly sanctioned for a sum of Rs.1,71,00,000/- vide sanction letter dated 30.05.2019, on the mortgage of the property of M/s SNECPL. It is stated that the same was done with the knowledge and consent of the complainant. Thereafter, another loan was sanctioned vide sanction letter dated 07.08.2020, for a sum of Rs.34,13,466/- which was obtained from CIFCL by M/s SNECPL.



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10. It is stated that unfortunately, due to the outbreak of the Covid-19 pandemic, the company could not make the payment of the instalments for the loans availed, whereafter, the loan accounts were declared as NPA and action was taken by CIFCL for re-entering the property. The property of M/s SNECPL was eventually sold in an auction sometime in the middle of 2023 for an amount of Rs.6.90 crores.

11. It is further stated that as the complaint was under the influence of the brother of applicant / Ms.Ritu Jaju and he was trying to control the family assets, she sent a legal notice dated 16.02.2022, seeking partition of the properties. Out of vengeance, the brother of Ms.Ritu Jaju made the complainant file the above complaint leading to the registration of the abovementioned FIR *inter alia* denying her signatures on the loan documents.

Proceedings in these applications:

12. As the applicants maintained that the loan documents had been signed by Ms. Sarla Sarda, this Court, vide its order dated 20.07.2022 passed in BAIL APPLN. 2171/2022 granted *interim* protection to the applicant / Ms.Ritu Jaju against arrest while awaiting the FSL report on the authenticity of the signatures on the loan documents. Similarly, in BAIL APPLN. 2168/2022 and BAIL APPLN. 2800/2022, the other applicants, that is, Neeraj Jaju and Anubhav Jaju, have been granted *interim* protection on



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the same grounds, vide orders dated 21.07.2022 and 19.09.2022 respectively.

13. Subsequently, the prosecution, by its status report dated 24.04.2023, has stated that the FSL report dated 09.02.2023 has been received, which opines that 97 signatures alleged to be of the complainant Ms.Sarla Sarda are, in fact, attributed to Mr.Neeraj Jaju, while another 14 signatures are attributed to Ms.Ritu Jaju; for the remaining signatures, the authorship could not be ascertained.

Submissions of the learned counsel for the Applicants

14. The learned counsel for the applicants submits that, in spite of the above FSL report, the applicants are entitled to be granted anticipatory bail as the entire case of the prosecution is based on the documents which are now available with the prosecution. He submits that pursuant to the *interim* protection granted by this Court, the applicants have joined the investigation on a number of occasions.

15. He further submits that for the payment of the loan transaction, in fact, certain personal property of the applicant / Mr.Neeraj Jaju himself also had to be liquidated. This itself shows the *bona fide* of the applicants.

16. He submits that the applicant / Mr.Anurav Jaju is aged only around 24 years and is a student. He has no say in the company and, in any case, even the FSL report does not



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attribute any signatures to have been appended on the loan documents in the name of the complainant by him.

17. He submits that Ms.Ritu Jaju is, in fact, a homemaker and is looking after the health of her daughter, who is suffering from epilepsy.

18. He submits that the entire dispute has arisen out of the claim of Ms.Ritu Jaju in the property left behind by her father late Sh.Keshav Sarda, and is, therefore, completely motivated with *mala fide*.

19. He submits that none of the applicants are a flight risk. They have deep roots in the society and, therefore, there is no need for a custodial interrogation of the applicants.

20. Placing reliance on the judgment of this Court in ***Awanish Kumar Mishra v. State***, 2021 SCC OnLine Del 4786, he submits that magnitude of the offence cannot be the only criteria for denying bail to the applicants; the purpose and the object of bail is to secure the appearance of the accused at the trial. In the present case, there can be no doubt on the presence of the applicants at the trial.

21. Placing reliance on the judgment of the Supreme Court in ***Siddharth v. The State of Uttar Pradesh***, (2022) 1 SCC 676, he submits that merely because an arrest can be made because it is lawful, does not mean that arrest must be made; there has to be a justification for exercising the power of arrest, and it cannot be made in a routine manner. If the Investigating Officer (in short, 'IO') has no reason to believe that the accused will



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abscond or disobey summons and the accused has, in fact, cooperated with the investigation, bail must be granted.

22. He also places reliance on the judgment of the Supreme Court in ***Rajeshbhai Muljibhai Patel and Ors. v. State of Gujarat and Ors.***, (2020) 3 SCC 794, to submit that the FSL report is not a conclusive piece of evidence and has to be corroborated with the other evidence. He submits that merely on the basis of the FSL report, therefore, bail cannot be refused to the applicants.

23. He submits that in cases of family disputes, in fact, bail, including anticipatory bail, should be granted. In support, he places reliance on the judgment of this Court in ***K.P. Jayaram v. The State of NCT Delhi***, 2016 SCC OnLine Del 3906.

24. He further submits that the applicants have not been called to join the investigation for almost more than a period of eight months.

Submissions of the learned APP

25. On the other hand, the learned APP points out that *interim* protection was granted to the applicants only while awaiting the outcome of the FSL report. The FSL report has now been received, which clearly shows that the signatures of the complainant had been forged by two of the applicants, that is, Ms.Ritu Jaju and Mr.Neeraj Jaju. He submits that in the present case, the forged documents were used to obtain a loan from a Bank. Therefore, Section 409 of the IPC has also been



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invoked by the prosecution. He submits that as it has also been contended that the loan documents were signed by the complainant at her residence, the applicants have to be confronted with the bank officials and for which, the custodial interrogation is required. He submits that there are other elements also which require custodial interrogation in these cases.

26. He further submits that the preliminary investigation carried out shows that out of an amount of Rs.1,91,98,117/-, an amount of Rs.65,55,000/- and Rs.73,48,092/- were, in fact, diverted to the accounts of Ms.Ritu Jaju and Mr.Neeraj Jaju respectively. He submits that the allegation of siphoning off of the funds is also to be investigated.

27. The learned APP submits that as the FSL report was awaited, the applicants were not called for further investigation. Thereafter, as the applicants are enjoying *interim* protection of this Court, no useful purpose would have been served calling them at that time.

28. In support of the above submissions, he places reliance on the judgement of the Supreme Court in *Nimmagadda Prasad v. CBI*, (2013) 7 SCC 466; of this court in *Ajay Kumar v. State (NCT of Delhi)*, Neutral Citation No.2022:DHC:4010; and of the High Court of Gujarat in *Harisinh Abhesinh Parmar v. State of Gujarat*, 2023 SCC OnLine Guj 61.

Submissions of the learned counsel for the complainant



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29. The learned counsel for the complainant, while reiterating the submissions made by the learned APP, has also submitted that the plea of the applicants that the above complaint was only a result of a family dispute and a reaction to the notice dated 16.02.2022 issued on behalf of Ms.Ritu Jaju, is incorrect inasmuch as the complaint had been filed on 16.11.2021, whereas the alleged legal notice is dated 16.02.2022, that is, after the filing of the complaint.

30. He submits that the applicants have not stopped only at forging the signatures of the complainant on the loan document, but have also fabricated the alleged legal notice dated 16.02.2022, copy whereof has been filed with the present applications. Drawing reference to the said notice, he submits that the address of the recipient, including the complainant, has not been mentioned in the notice; it is an unsigned document; it also has blanks; and there is no proof of posting the same.

31. He submits that even during the pendency of the present proceeding, the applicants have indulged in acts to mislead this Court. In this regard, he draws the attention of this Court to an affidavit dated 11.10.2023, which gives the address of the applicants as Plot No. 2 NS 2, H Block, Near Nirvana Country, South City, Gurugram, Haryana-122018. The said address, in fact, is the property that had been mortgaged with the bank as a security for the alleged loan transaction and had already stood sold in an auction with the possession handed over to the successful bidder. The applicants have, therefore, continued



with their unlawful acts and have even placed documents making false assertions before this Court.

32. He further draws my attention to a WhatsApp chat allegedly received by the son of the complainant from Mr. Neeraj Jaju, mocking him for the delay in the adjudication of the present applications.

33. He submits that the applicants are, therefore, misusing the indulgence granted by this Court and do not deserve any leniency.

34. He further submits that the property of the company was, in fact, purchased from the money contributed *inter alia* by the complainant from her personal account.

Rejoinder by the learned counsel for the Applicants

35. In rejoinder, the learned counsel for the applicants, while reiterating the submissions made in the opening, further submits that the affidavit dated 11.10.2023, due to an oversight, mentioned an incorrect address of the applicants. Realising this mistake, fresh affidavits were later filed and, therefore, no adverse inference should be drawn against the applicants for the same.

36. He further submits that the Whatsapp message relied upon by the complainant, was not sent by any of the applicants. An affidavit in this regard has also been filed in these proceedings.



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37. He further submits that the amounts were received by Mr.Neeraj Jaju and Ms.Ritu Jaju from M/s SNECPL, as they had contributed funds from their own accounts towards the construction of the building on the plot of land belonging to the company and even otherwise. He submits that the amount transferred was merely a repayment of the same. He submits that all the bank account details and their statements have been handed over by the applicants to the IO to prove the same.

Conclusion and Analysis

38. I have considered the submissions made by the learned counsels for the applicants.

39. In the present case, it is the case of the prosecution that the signatures of complainant / Ms.Sarla Sarda have been forged on the loan documents, bases whereof, loans were obtained by the company from CIFCL. This fact at least *prima facie* is now supported by the FSL report which has been referred to hereinabove. The prosecution further alleges that there is a siphoning of funds by the applicants, that is, Ms.Ritu Jaju and Mr.Neeraj Jaju into their own personal accounts.

40. This Court, by its order(s) dated 19.09.2022, 20.07.2022 and 21.07.2022, had granted *interim* protection in favour of the applicants, only while awaiting the outcome of the FSL report. The said report has now come against the applicants. The case would certainly require further investigation to be carried out, including confronting the applicants with the bank officials.



41. The authenticity of the plea of the applicants that the amount had been transferred by themselves to their own accounts to balance the alleged payments earlier made by them would also have to be investigated.

42. The principles governing grant of anticipatory bail, and the prejudice it can cause in certain cases to the prosecution, has been emphasised by the Supreme Court in ***P. Chidambaram v. Directorate of Enforcement***, (2019) 9 SCC 24, observing as under:

“83. Grant of anticipatory bail at the stage of investigation may frustrate the investigating agency in interrogating the accused and in collecting the useful information and also the materials which might have been concealed. Success in such interrogation would elude if the accused knows that he is protected by the order of the court. Grant of anticipatory bail, particularly in economic offences would definitely hamper the effective investigation. Having regard to the materials said to have been collected by the respondent Enforcement Directorate and considering the stage of the investigation, we are of the view that it is not a fit case to grant anticipatory bail.

84. In a case of money-laundering where it involves many stages of “placement”, “layering i.e. funds moved to other institutions to conceal origin” and “interrogation i.e. funds used to acquire various assets”, it requires systematic and analysed investigation which would be of great advantage. As held in Anil Sharma [State v. Anil Sharma, (1997) 7 SCC 187 : 1997 SCC (Cri) 1039] , success in such interrogation would elude if the accused knows that he is protected by a pre-arrest bail order. Section 438 CrPC is to be invoked only in exceptional cases where the case alleged is



frivolous or groundless. In the case in hand, there are allegations of laundering the proceeds of the crime. The Enforcement Directorate claims to have certain specific inputs from various sources, including overseas banks. Letter rogatory is also said to have been issued and some response have been received by the Department. Having regard to the nature of allegations and the stage of the investigation, in our view, the investigating agency has to be given sufficient freedom in the process of investigation. Though we do not endorse the approach of the learned Single Judge in extracting the note produced by the Enforcement Directorate, we do not find any ground warranting interference with the impugned order [P. Chidambaram v. CBI, 2019 SCC OnLine Del 9703] . Considering the facts and circumstances of the case, in our view, grant of anticipatory bail to the appellant will hamper the investigation and this is not a fit case for exercise of discretion to grant anticipatory bail to the appellant.”

43. In **Sujeet Bhati v. State**, 2023 SCC OnLine Del 419, this court has held as under:

“18. Pre-arrest bail is to be granted only when the court is convinced that circumstances exist to resort to that extraordinary remedy and cannot be a matter of routine. Custodial interrogation is a recognized mode of investigation which is not only permitted but is held to be more effective.

19. Interrogation of an accused, while in custody, is qualitatively different from that undertaken while the accused is enjoying protection under an order of a Court against his arrest. This is a well-recognized position in law. It is the right of the investigating agency to conduct a proper and fair investigation. The Hon'ble Apex Court, in the case of CBI v. Anil Sharma [(1997) 7 SCC 187], held that



investigating a person appearing before the Investigating Officer under the protection of the Court order under 438 of the CrPC is qualitatively different from the custodial interrogation which would lead to better collection of evidence, thereby ensuring a proper investigation. Custodial interrogation is more elicitation - oriented than questioning an individual/suspect ensconced with a protection of Court Order.”

44. In **Somnath Patial v. State (NCT of Delhi)**, 2023 SCC OnLine Del 6322, this court has held as under:

“11. In Sushila Aggarwal v. State (NCT of Delhi), (2018) 7 SCC 731, the position of law, that while considering anticipatory bail applications, Court should consider nature and gravity of the offence(s), role attributed to the Applicant and facts of the case, was reaffirmed. In Pratibha Manchanda v. State of Haryana, (2023) 8 SCC 181, the Supreme Court observed that the relief of anticipatory bail is aimed at safeguarding individual rights. While it serves as a crucial tool to prevent misuse of power of arrest and protects innocent individuals from harassment, it also presents challenges in maintaining a delicate balance between individual rights and interests of justice. The tight rope the Courts must walk lies in striking a balance between safeguarding individual rights and protecting public interest. While the right to liberty and presumption of innocence are vital, Court must also consider gravity of the offence, impact on the society and need for a fair and free investigation.

12. In the present case, the allegations against the Petitioner, who was the Chief Manager of the concerned bank and had sanctioned overdraft limit of Rs. 1.95 crores in favour of the borrower, are serious and as per the stand of the State, custodial interrogation of the



Petitioner is required as he needs to be confronted with various documents and statements. The loan transaction may be a part of a larger bank fraud and thus the entire trail needs to be unearthed. Hence, no ground for grant of anticipatory bail is made out. In so far as argument of the Petitioner that his action is in consonance with the Banking regulations, circulars and norms is concerned, the same will be a subject matter of investigation and cannot be adjudicated at this stage.”

45. It is also important to note that in the present case, the allegation is of the applicants having obtained loans by submitting forged documents, as a result of which, the account of the Company was declared NPA and its property sold in auction. This is a serious economic offence. In relation to economic offence, in ***State of Gujarat v. Mohanlal Jitmalji Porwal & Others*** (1987) 2 SCC 364, the Supreme Court has held as under:

“5.... The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest....”



46. In **Y.S. Jagan Mohan Reddy v. CBI**, (2013) 7 SCC 439, the Supreme Court observed that economic offences constitute a separate class which needs to be visited with a different approach in the matters of bail. The relevant observations may be quoted as under: -

"34. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.

35. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. "

47. A similar view has been taken by the Supreme Court in **Nimmagadda Prasad v. CBI**, (2013) 7 SCC 466, observing as under:

"23. Unfortunately, in the last few years, the country has been seeing an alarming rise in white-collar crimes, which has affected the fibre of the country's economic structure. Incontrovertibly, economic offences have serious repercussions on the development of the country as a whole. In State of Gujarat v. Mohanlal Jitmalji Porwal [(1987) 2 SCC 364 : 1987 SCC (Cri) 364] this Court, while considering a request of the prosecution



for adducing additional evidence, inter alia, observed as under: (SCC p. 371, para 5)

“5. ... The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white-collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest.”

24. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the legislature has used the words “reasonable grounds for believing” instead of “the evidence” which means the court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.”



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48. Keeping in view the above principle, and in the facts and circumstances of the present case, in my considered view, granting anticipatory bail to the applicants would prejudice the investigation in the present FIR. The offences against the applicants are serious in nature. Custodial investigation of the applicants is required. Though it is correct that personal liberty is an important aspect of our constitutional mandate, and the magnitude of the offence cannot be the only criteria for denying bail, in the present case, for a proper investigation, the prosecution prays for custodial interrogation of the applicants. There are allegations with respect to siphoning off of the funds that were obtained in the form of loans. In my view, therefore, the applicants are not entitled to extension of the *interim* protection granted by this Court.

49. Consequently, the *interim* protection granted to the applicants vide orders dated 20.07.2022; 21.07.2022; 19.09.2022, respectively are vacated.

50. The Bail Applications are accordingly dismissed.

51. It is however, emphasised that merely because the present applications have been dismissed, it would not mean that the police must necessarily arrest the applicants or all of them. It is expected that the police/IO would show circumspection in matter of arrest, and would resort to the same and only against those of the applicants as may be found necessary for a proper investigation.



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52. It is further made clear that any observation made in the present order shall in no manner prejudice the applicants in future proceedings.

53. The pending applications are also disposed of accordingly.

54. *Dasti.*

NAVIN CHAWLA, J

FEBRUARY 23, 2024/rv/ss

Click here to check corrigendum, if any