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

+ **CRL.M.C. 3386/2022**

STATE OF NCT OF DELHI

.....Petitioner

Through: Mr. Naresh Kumar
Chahar, APP for the State.
Inspector Awadhesh
Kumar Singh (P.S. EOW,
New Delhi).

versus

SANJAY CHANDRA & ANR.

.....Respondents

Through: Mr. Vishal Gosain, Mr.
Anuroop Chakravarti &
Mr. Pravir Singh,
Advocates for R-1 & R-2.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

09.10.2024

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1. The present petition is filed challenging the order dated 24.12.2020 passed by the learned Additional Sessions Judge, Patiala House Courts, New Delhi, registered at Police Station Economic Offences Wing, whereby the respondents were admitted on bail, in FIR No.125/2014, for offence under Sections 406/409/420/120B of the Indian Penal Code, 1860.
2. The learned Additional Public Prosecutor for the State submits that the order has been passed on an erroneous consideration.
3. He submits that the facts were wrongly noted which led to passing of the impugned order.
4. He submits that the learned Trial Court noted that the



cheated amount is only 21 crores whereas the amount involved is more than 300 crores.

5. He further submits that the learned Trial Court also noted that the maximum punishment for offence under Section 409 is seven years whereas the punishment provided is upto life.

6. The learned counsel for the respondents submits that despite the impugned order admitting the respondents on bail, they were not released from custody.

7. He submits that the respondents were not released since FIR No.101/2015 was being monitored by the Hon'ble Apex Court and the respondents were in custody in the said FIR.

8. He submits that the Hon'ble Apex Court, by order dated 09.11.2023, granted the respondents permission to file the bail application in the said FIR before the learned Trial Court.

9. He submits that the bail application was thereafter filed before the learned Trial Court, and the Court by order dated 27.01.2024, admitted the respondents on bail.

10. He submits that the respondents were thereafter granted bail in the case registered by the Enforcement Directorate and the respondents were finally released on 07.06.2024.

11. He submits that, in such circumstances, the respondents have already spent almost seven years in custody in the present FIR and can no longer be argued to be required to be in custody for any purposes.

12. He submits that earlier there has been impediment in the release of the respondents on bail, however, pursuant to the order dated 07.11.2023, passed by the Hon'ble Apex Court, the liberty had been granted to the respondents to file the bail applications in all the pending FIRs.

13. He submits that the respondents are no longer in custody



and have been granted bail in all the FIRs registered against them.

14. It is undisputed that the chargesheet and the supplementary chargesheets have already been filed in the present case and the charges are yet to be framed. In such circumstances, it cannot be denied that the trial is not likely to be concluded in the near future.

15. The prosecution has cited more than 58 witnesses in support of their case.

16. It cannot be denied that the entire evidence in the present case is documentary in nature. The respondents have already spent seven years in custody and cannot be alleged that they would tamper with the evidence at this stage. Moreover, any such apprehension can be taken care of by putting appropriate conditions.

17. Undoubtedly, the economic offences, as alleged in the present case which involve number of investors, is grave. However, it cannot be ignored that almost seven years have been spent by the respondents in custody and the trial is not likely to conclude in the near future.

18. The Hon'ble Apex Court in the case of *Union of India v. K.A. Najeer* : AIR 2021 SC 712, has held that once it is obvious that a timely trial would not be possible, and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail.

19. The continued incarceration of the respondents will result in the denial of their fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution of India, when the trial is not likely to conclude in the near future.

20. The object of jail is to secure the appearance of the



accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment.

21. The respondent is also not required to be in custody in any other FIR.

22. No ground is made out for setting aside the order granting bail to the respondents.

AMIT MAHAJAN, J

OCTOBER 9, 2024

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