2024:DHC:10095

$~J-

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

Date of Decision: 20th December 2024

\+ BAIL APPLN. 1926/2024 and CRL.M.A.37676/2024, CRL.M.(BAIL) 2132/2024

MANU PRASHANT WIG .....Petitioner

Through: Ms. Rebecca John, Sr. Advocate with Mr. Rajesh Rathod and Mr. Nilanjan Dey, Advocates.

versus

STATE OF NCT DELHI .....Respondent

Through: Ms. Shubhi Gupta, APP for the State with Insp. Kamal Kishor, P.S.: EOW. Mr. Arvind Kumar, Advocate *via* video-conferencing for one of the victims.

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

ANUP JAIRAM BHAMBHANI J.

By way of the present petition filed under section 439 of the Code of Criminal Procedure 1973 ('Cr.P.C,'), the petitioner seeks regular bail in case FIR No. 28/2020 dated 17.02.2020 registered under sections 406/420/120-B of the Indian Penal Code, 1860 at P.S.: Economic Offence Wing, New Delhi.

2. Notice on this petition was issued on 29.05.2024.

3. Status Reports dated 24.07.2024, 25.07.2024 and 19.09.2024 have been filed by the State in the matter.

4. Nominal Roll dated 18.07.2024 has also been received from the Jail Superintendent.

5. Pursuant to intimation issued to the complainants/victims, Mr. Arvind Kumar, learned counsel has appeared on behalf of some of the complainants.

6. The court has heard Ms. Rebecca John, learned senior counsel appearing for the petitioner; Ms. Shubhi Gupta, learned APP appearing for the State; as well as Mr. Arvind Kumar, learned counsel appearing for some of the complainants/victims, in detail.

7. The case arises from allegations that the petitioner, as one of the Directors of a company called Blue Fox Motion Pictures Pvt. Ltd. and as a 50% shareholder in another entity, namely Blue Fox Motion Pictures LLP, had induced the complainants to invest monies, promising certain assured returns on their investment, but failed to honour the commitments.

8. In this backdrop, the allegation against the petitioner is that having invited and accepted investments from the public at large, and having promised high rates of return, the petitioner vanished sometime in May/June 2018, without giving to the complainants the assured returns and without even refunding the monies invested by them. This led to registration of the subject FIR and to the petitioner's (first) arrest on 08.04.2022.

9. Upon completion of investigation, chargesheet dated 10.04.2023 has been filed in the matter; and the case is now pending before the learned trial court at the stage of cognizance/summoning of the accused persons.

10. Ms. Rebecca John, learned senior counsel appearing for the petitioner has premised her plea for grant of regular bail on 07 principal grounds, as detailed hereinafter.

11. *Firstly*, it is argued that the petitioner has suffered a long period of judicial custody as undertrial; that there is no likelihood of the trial being concluded any time soon; and that therefore, as per the recent pronouncements of the Supreme Court in various cases involving personal liberty, the petitioner is entitled to be released on regular bail.

12. Ms. John argues that the petitioner has been in judicial custody since the date of his (first) arrest on 08.04.2022; and as of 16.12.2024, he has spent over 643 days in judicial custody as an undertrial in what are Magistrate triable offences. Learned senior counsel submits that chargesheet dated 10.04.2023 has been filed in the matter, which cites 213 prosecution witnesses; and that therefore, it is unlikely for the trial in the matter to be concluded within any foreseeable period of time.

13. Learned senior counsel further argues, that in a series of recent judgments the Supreme Court has recognised the right of an accused to speedy trial; and it has been held that even in the most serious of offences under the Unlawful Activities (Prevention) Act 1967 and the Prevention of Money Laundering Act 2002, the Supreme Court has

consistently granted bail to accused persons who have suffered a substantial period of judicial custody. In this behalf, Ms. John has placed reliance on the Supreme Court decisions in ***Union of India vs. K.A. Najeeb***[1]; ***Neeraj Singhal vs. Directorate of Enforcement***[2]; ***Vijay Nair vs. Directorate of Enforcement***[3]; ***K. Kavitha vs. Directorate of Enforcement***[4]; ***Prem Prakash vs. Enforcement Directorate***[5]; ***Manish Sisodia vs. Directorate of Enforcement***[6]; ***Sameer Mahandru vs. Directorate of Enforcement***[7]; ***Chanpreet Singh Rayat vs. Directorate of Enforcement***[8] and ***V. Senthil Balaji vs. Directorate of Enforcement***[9]**.**

14. *Secondly*, Ms. John argues, that the money of which the complainants are alleged to have been cheated in the subject FIR, has in any case been secured now, and to that extent, the financial interests of the complainants have been addressed.

15. Ms. John submits, that in chargesheet dated 10.04.2023 filed in the matter, the allegations against the petitioner are restricted to *168 complainants* and the amount allegedly received by petitioner's businesses, is about *Rs. 7.37 crores*, which is also what is reflected in Status Report dated 02.05.2024 filed on behalf of the State before the learned trial court. However, it is pointed-out, that in Status Report

---

[1] (2021) 3 SCC 713 (Sr. No. 1, paragraphs 15, 17, 18)
[2] 2024 SCC OnLine SC 3598
[3] 2024 SCC OnLine SC 3597
[4] 2024 SCC OnLine SC 2269
[5] (2024) 9 SCC 787
[6] 2024 SCC OnLine SC 1920
[7] 2024 SCC OnLine Del 6261
[8] 2024 SCC OnLine Del 6264
[9] 2024 SCC OnLine SC 2626

dated 18.07.2024 filed before this court, the prosecution has now sought to modify its stand, by alleging that the petitioner has duped *200 complainants* to the tune of about *Rs. 11 crores*; however, no supplementary chargesheet has been filed in relation to the allegation regarding the additional complainants or the revised sum of money.

16. Learned senior counsel accordingly argues, that the allegations relating to the additional number of complainants or to the revised sum of money allegedly cheated, need not be acknowledged by the court while deciding the present bail petition.

17. *Thirdly*, learned senior counsel argues that even insofar as the sum of Rs. 7.37 crores is concerned, a perusal of the table of victims as set-out in the chargesheet would show, several of those transactions are alleged to have been conducted in 'cash', which cash is alleged to have been given to multiple individuals, including one Vedveer Arya (whose wife Seema Rani is herself a complainant in the case) and not all the 'investments' are alleged to have been made to the petitioner's company or other business entities.

18. It is accordingly submitted, that a substantial proportion of the alleged sum of Rs. 7.37 crores is 'unverifiable', since it has not been remitted into the company account; and therefore, several of the claims are based on unverifiable remittances. It is pointed-out that even in respect of the monies allegedly remitted into the accounts of multiple individuals, documents in support thereof have been collected only from 10 victims, as set-out in the table in the chargesheet, out of a total of 168 complainants.

19. The above notwithstanding, it is argued, that even going by the figure of Rs. 7.37 crores, the investigating agency has already frozen the bank accounts of the alleged beneficiaries to the tune of about Rs. 3.67 crores; that one of the entities involved *i.e.,* M/s Sohail Khan Productions has deposited with the learned Sessions Court about Rs. 15.21 lacs on 24.04.2024 and another sum of about Rs. 6.34 crores in 02 installments on 15.05.2024 and 13.08.2024, which amounts add-up to about Rs. 6.5 crores. Furthermore, the petitioner has paid to some of the victims Rs. 10 lacs towards settlement/re-payment; and co-accused Pankaj Goyal has deposited Rs. 20 lacs at the stage when he was granted bail by the leaned Sessions Court *vide* order dated 10.11.2022. It is submitted that these sums aggregate to about Rs. 10.46 crores, over which the investigating agency now has control.

20. *Fourthly*, Ms. John argues, that the run of events in the matter would show that it cannot be said that the petitioner had any fraudulent or dishonest intention at the stage when he invited monies into his businesses, since the chargesheet itself records that some of the complainants have said that initially they received returns on their investments but such returns stopped after a period of time.

21. Insofar as the issue of giving assured returns is concerned, attention of the court is drawn to the fact that the agreements signed with the investors contained a *'risk factors'* provision in clause 11 of the agreement, which clearly says that returns on investments are subject to the commercial success of a film, and that film-making is a high risk venture.

22. It is accordingly argued, that the facts belie the allegation that the petitioner entertained any fraudulent or dishonest intention from the beginning of the transactions; and show that the inability to pay returns on the monies received is attributable to market conditions, which was part of the risk that the complainants took as investors.

23. *Fifthly*, Ms. John argues, that the petitioner is entitled to be accorded parity with co-accused Priyesh Kumar Sinha, who was released on regular bail by a Co-ordinate Bench of this court *vide* order dated 01.09.2023 made in BAIL APPLN. No. 2309/2023, after spending only about 06 months in judicial custody; and with co-accused Pankaj Goyal, who was released on regular bail by the learned Sessions Court *vide* order dated 10.11.2023, after spending only about 269 days in judicial custody.

24. Learned senior counsel submits, that the allegations against the petitioner are similar to those levelled against the aforesaid co-accused persons; and the petitioner is therefore entitled to be treated similarly.

25. *Lastly*, Ms. John points-out, that the petitioner was granted interim bail for a month *vide* order dated 23.09.2024 and he duly surrendered back to custody on 23.10.2024; that while on bail, he cooperated with the investigating agency; and there is no allegation that he misused the liberty that was granted to him.

26. In the circumstances, it is prayed that the petitioner be admitted to regular bail.

27. On the other hand, Ms. Shubhi Gupta, learned APP for the State has opposed the grant of regular bail primarily on the basis that the

petitioner is one of the main accused persons in the matter, who invited investments from the public at large in different schemes of his company, promising high rates of returns, but after receiving the deposits from investors, he closed the company office and disappeared sometime in May/June 2018.

28. Learned APP argues, that the petitioner is a habitual offender, who has adopted the same *modus-operandi* even earlier to cheat the public at large; that he has 09 other FIRs registered against him in different parts of the country; and that as of now, the number of victims in the present case has increased from the initial number of 168 victims to about 201.

29. Furthermore, learned APP submits, that from the accounts of the accused business entities the petitioner has himself received about Rs. 3.87 crores that was cheated from the complainants.

30. To substantiate this submission, Ms. Gupta has placed reliance on the statements of several victims, who have said that the petitioner had represented to them that "*his company produces films, TV series, events and music videos, and there is a lot of profit in their business*"; and had induced them to invest their hard earned money *inter alia* by showing them his photographs with Sohail Khan.

31. Besides, learned APP submits, that as would be seen from the statements of the complainants, none of the victims was apprised as to which movie(s) or other venture their money was being invested-in nor were the complainants informed of whether any movies were produced or released nor whether they were box-office successes or failures.

32. Ms. Gupta also presses the point that when the petitioner was released on interim bail for 30 days *vide* order dated 19.04.2022 passed by the learned trial court, for the purpose of making payment to the victims, he absconded; and as a result his interim bail plea was dismissed and non-bailable warrants were issued against him; whereupon the petitioner was re-arrested on 24.02.2023. Accordingly, learned APP contends that the petitioner is a serious flight risk.

33. Learned APP accordingly submits, that the petitioner is not entitled to the relief of regular bail.

34. Mr. Kumar, learned counsel appearing for one of the complainants also opposes the grant of bail, submitting that the petitioner alongwith his co-accused was running a '*ponzi scheme*', promising high returns on investments, which returns were never paid; and that the petitioner is the main conspirator who had received most of the deposits from the investors into his own account and the accounts of his family members by transferring money from the accounts of his business entities.

35. Mr. Kumar has placed reliance on the decision of the Supreme Court in ***Y.S. Jagan Mohan Reddy vs. Central Bureau of Investigation***[10] to argue, that while considering a bail application, it must be borne in mind that economic offences having deep-rooted conspiracies, involving huge loss of public funds and need to be viewed seriously; and that such offences must be considered as grave offences, affecting the economy of the country as a whole.

---

[10] (2013) 7 SCC 439

36. Learned counsel submits, that while considering the grant of regular bail, the court must also bear in mind the nature of the accusation, the nature of the evidence in support thereof, the severity of the punishment which a conviction would entail, as well as the role and character of the accused and the circumstances peculiar to a given case. Mr. Kumar submits, that the possibility of securing the presence of the accused at trial, the apprehension of witnesses being intimated and evidence being tampered with, must also be duly considered.

37. Accordingly, learned counsel for the complainants submits, that if the petitioner is enlarged on bail, he will further involve himself in similar offences and will cheat the public at large; and that therefore he does not deserve regular bail.

38. That being said, learned counsel also prays that this court may issue requisite directions to the learned trial court to release the monies deposited in the present case to the complainants/victims against filing of requisite indemnity bonds on a first-come-first-served basis, after verifying the credentials of complainants and their claims.

39. On the point of the petitioner's alleged abscondence when he was released on interim bail, Ms. John explains, that the petitioner was granted interim bail in two spells. The first time he was granted interim bail *vide* order dated 19.04.2022, whereafter he was re-arrested on 24.02.2023; but then, *vide* order dated 23.09.2024 the petitioner was granted interim bail a second time, whereafter he duly surrendered to custody on 23.10.2024. She submits that therefore, even after the first spell of interim bail, when the petitioner went *missing,* this court again considered it appropriate to grant him interim

bail, and therefore, the earlier episode must not be held against him at this stage.

40. After considering the rival contentions of the parties, the considerations that weigh with this court, *at this stage*, are the following :

40.1. That there is no gainsaying that through his business entities the petitioner has engaged in receiving monies from the public at large, and that at least 168 complaints have been received against the accused by the investigating agency, which has led to filing of the subject FIR;

40.2. That though the prosecution contends that subsequently several more complaints have also been received which increases the money allegedly cheated, as of date, chargesheet dated 10.04.2023 filed in the matter relates only to 168 complaints and alleges defalcation of about Rs. 7.37 crores by the petitioner and other co-accused persons;

40.3. That as argued on behalf of the petitioner, the receipt of monies by his business entities is 'unverifiable', since several of the amounts set-out in the table of victims in the chargesheet, shows that many of those deposits were made in 'cash' to certain persons and not directly to the company. The veracity of the claims against these deposits is a matter of trial; and as of now, it cannot be said that all claims made by the complainants are *prima-facie* verified;

40.4. That the copies of the agreements placed on record contain a 'risk factors' provision in clause 11, which in so many words cautions the investors/complainants as to the risks involved in the film business, and reads as under :

> "*Risk Factors:* (a) Investment in the film industry is risky. There can be no assurance of the economic success of any motion picture. The commercial success of a motion picture depends upon the quality and acceptance of other released films at or near the same time, general economic factors, and other factors."

40.5. That out of the Rs. 7.37 crores which forms subject matter of the charge-sheet, a sum of Rs. 6.5 crores stands deposited in court by M/s Sohail Khan Productions as referred to above; and bank accounts of the alleged beneficiaries with about Rs. 3.67 crores have been frozen by the investigating agency. Furthermore, co-accused Pankaj Goyal has also deposited Rs. 20 lacs as a condition of bail granted by the learned sessions court. To that extent therefore, a sum of about Rs. 10.46 crores is within the control of the investigating agency;

40.6. That as per Nominal Roll dated 18.07.2024 received from the Jail Superintendent, as of that date, the petitioner had spent about 01 year and 09 months in judicial custody as an undertrial. The prosecution has cited 213 witnesses in the chargesheet and trial in the matter is yet to begin. Clearly therefore, it is extremely unlikely that trial in the matter will conclude anytime soon;

40.7. That if, as the learned APP states, several subsequent complaints have also been received by the investigating agency in the matter, which are now under investigation and would culminate in filing of a supplementary chargesheet, it is reasonable to assume that trial in the matter would be further delayed;

40.8. That in light of the recent pronouncements of the Supreme Court, as cited on behalf of the petitioner, reiterating the right of an accused to speedy trial under Article 21 of the Constitution of India, it is now hardly debatable that prolonged incarceration of an undertrial with no foreseeable possibility of early conclusion of trial, entitles an accused to be released on regular bail pending trial; and

40.9. That though it does appear that the petitioner had absconded for a certain spell of time while he was on interim bail, that again does not detract from the fact that subsequent to his re-arrest on 24.02.2023, he has already spent about 688 days in judicial custody as an undertrial.

41. Upon a conspectus of the facts and circumstances of the case and based on the above-noted considerations, this court is inclined to admit the petitioner – **Manu Prashant Wig s/o Ashok Kumar Wig –** to *regular bail* pending trial in case FIR No. 28/2020 dated 17.02.2020 registered under sections 406/420/120-B IPC at P.S.: Economic Offence Wing, New Delhi, subject to the following conditions :

41.1. The petitioner shall furnish a personal bond in the sum of Rs. 5,00,000/- (Rs. Five Lacs Only) with 02 sureties in the like amount from family members, to the satisfaction of the learned trial court;

41.2. The petitioner shall furnish to the Investigating Officer ('I.O.') a cellphone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;

41.3. If the petitioner has a passport, he shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of the learned trial court;

41.4. The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial;

41.5. In case of any change in his residential address/contact details, the petitioner shall promptly inform the I.O. in writing; and

41.6. In addition to the foregoing conditions, the petitioner shall not open or close any bank account, nor will he open or close any company or other business entity, without giving to the I.O. a 30-day prior written notice; and would furnish to the I.O. the full particulars of any such action that he proposes to take.

42. Since the petitioner is facing trial and is therefore appearing before the learned trial court from time-to-time, it is not considered necessary to impose a reporting requirement as a condition of regular bail.

43. Nothing in this order shall be construed as an expression of opinion on the merits of the pending matter.

44. A copy of this order be sent to the concerned Jail Superintendent *forthwith*.

45. The petition stands disposed-of.

46. Other pending applications, if any, are also disposed-of.

ANUP JAIRAM BHAMBHANI, J

DECEDMBER 20, 2024
V.Rawat