**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-37180-2024 (O&M)
Date of decision: 10.03.2025

Bhagwan Dass Gupta ...Petitioner

Versus

Serious Fraud Investigation Office ...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Trideep Pias, Senior Advocate with
Mr. Dhruv Gautam, Advocate,
for the petitioner.

Ms. Puneeta Sethi, Senior Panel Counsel with
Mr. Y.S. Thakur, Advocate,
for the respondent.

MAHABIR SINGH SINDHU, J.

Present **second** petition has been filed, under Section 439 of Code of Criminal Procedure, 1973 (*for short, "Cr.P.C"*), for seeking bail pending trial in complaint No. COMA-17-2021 titled as "***Serious Fraud Investigation Office (for short "SFIO"} Versus SRS Ltd. and others***" under Sections 448 of the Companies Act, 2013 (for short "Act of 2013").

2. The Ministry of Corporate Affairs, Government of India, ordered SFIO to investigate into the affairs of 88 companies of SRS Group vide order dated 01.08.2018. In pursuance thereof, investigating officer(s) were appointed by the Director, SFIO. The investigation was carried out in the matter and the report was submitted to Central Government on 05.06.2021 in terms of Section 212(12) of the Act of 2013.

2.1 Thereafter, complaint was filed before learned Special Court, Gurugram against 81 accused, including petitioner on 11.06.2021 and ultimately, all were summoned to face trial under various provisions of the Act of 2013 vide order dated 16.08.2021 (P-3).

2.2 It transpires that petitioner was in custody in some other case; his presence was secured in the present case through production warrant dated 23.11.2021 passed by learned Special Court. Consequently, he was produced in this case on 28.04.2022. Thereafter, he applied for bail pending trial; but the same was declined by learned Special Court vide order dated 27.04.2022. Again he tried to make an endeavour by moving second bail application, but the same was also dismissed on 20.05.2022 by learned Special Court. Ultimately, he approached this Court vide CRM-M-25345-2022, but remained unsuccessful as the same was declined by Coordinate Bench on 09.12.2022.

2.3 Still aggrieved, petitioner approached Hon'ble the Supreme Court, but his SLP(Crl.) No.2179-2023 was dismissed vide order dated 10.07.2023. Yet again, petitioner made third attempt before learned Special Court, but the same was declined on 27.05.2024; hence present petition.

3. Allegations, as gathered from the complaint and investigation report dated 05.06.2021, are extracted here as under:-

> *"(I) SRS Group consisted of two categories of companies with the nomenclature 'SRS companies' and 'Non-SRS companies'. It is revealed that the affairs of these companies were managed and controlled by Anil Jindal, Jitender Kumar Garg, Praveen Kumar Kapoor, Bishan Bansal, Nanak Chand Tayal, Rajesh Singla and Sushil Singla. The said persons were the actual controlling "mind and will" and in control of the affairs of the SRS Group. The degree of their control was such that the directors in these companies were appointed or removed as per their whims and fancies.*
>
> *II) That in case of Non-SRS companies, it is revealed that the directors were mostly the employees, known persons, or relatives of the*

controllers of the SRS Group. However, the total control over the operations of these companies was in the hands of the controllers of the SRS Group.

(III) It is revealed that five companies belonging to SRS Group i.e., SRS Limited, SRS Modern Sales Limited, SRS Healthcare & Research Centre Limited, SRS Finance Limited & SRS Real Estate Limited obtained loans to the tune of Rs. 528 crores (after 12.09.2013) from public sector banks/financial institutions. The outstanding bank loans with respect to nine of the SRS Group of companies, as per the latest financial statements filed with MCA, are Rs. 1596.94 Crores.

(IV) It is further revealed that the directors of SRS Ltd. and its four other Group Companies had presented falsified financial statements (after 12.09.2013) containing falsified statements of debtors, inflated Purchase & Sales figures, deliberately concealed the material facts in obtaining aforesaid credit facilities from public sector banks/financial institutions. In this regard, non-SRS companies were used for the purpose of inflating the sale, purchase, and profit of the SRS Companies, adjusting cash sales of jewellery and building material of declared SRS Companies, showing these Non-SRS companies as debtors in the books of accounts of SRS Companies.

(V) It is further revealed that the controllers of the CUIs connived and Siphoned Off funds of Rs. 671.48 Crores and diverted funds amounting to Rs. 645.86 Crores from SRS Group of Companies by way of separate/distinct transactions. Further, the unlawful gain to the family members or Companies of the controller of SRS Group was by way of siphoning off the public funds from SRS Group of Companies and it was to the tune of Rs. 21.11 Crores after the period 11.09.2013.

(VI) Investigation also revealed that the auditors of the SRS Companies had deliberately suppressed the actual figures & entries in the accounts of the company and had given wrong, false, and misleading statements in the financial statements, knowing it to be false in a material particular and had omitted to state the material facts, knowing to be material to hide the true nature of the financial statements.

(VII) The SRS Group-where mostly the directors were the Controllers of SRS Groups and their family members in these companies, the employees were also made directors. The directors of these companies were employees of SRS Group or their relatives. Many of these directors were the past directors in the SRS Group.

(VIII) Whenever Anil Jindal/co-accused wanted to incorporate a company either in SRS Group or as a Non-SRS Company, the Secretarial Department was provided the basic details such as a Name, Main objects, place of registered office, authorized capital, and directors, etc. by him. Based on information/instruction given by Anil Jindal, the Secretarial Department use to fill the form for incorporation after preparing the MOA and AOA as per the main objects through Ms. Savita Trehan, Practicing Company Secretary.

(IX) In this regard it is pertinent to mention here that Ms. Savita, in her statement on oath, stated that she either got incorporated or filed forms concerning many companies.

(X) As per the requirement, Anil Jindal conveys which person is to be appointed or resigned as director from any company and provide them the documents of the appointee director and accordingly they file the Form -32 / Form DIR- 12 of the concerned persons.

(XI) Anil Jindal or Accounts Department conveys which person/firm is to be appointed or has resigned from any company and further he provided them the documents of the appointee auditors. Accordingly, they filed forms for the appointment and resignation of concerned auditors.

(XII) No board meetings of most of the SR Group companies/were held, however, in compliance with Company Law or for other requirements such as the opening of bank accounts, etc., the Secretarial Department prepares the minutes of all such companies. AGMs of SRS Group companies were not held physically. However, documents of these AGMs were prepared in compliance with company law on the instructions of Anil Jindal.

(XIII) Financial statements of SRS and Non-SRS companies were prepared by the accounts departments and they get the balance sheets

signed by auditors, preparing notices, director reports, MDA, etc. After the preparation of the notice, director reports, MDA, etc., they use to handed over it to the accounts department or Anil Jindal for signing by Directors. After receiving the signed annual reports, they use to file the same with ROC as generally digital signatures of all the directors were kept with the Secretarial Department with the knowledge of the concerned Directors."

CONTENTIONS:

4. ON BEHALF OF PETITIONER :-

4.1 Learned counsel for petitioner contends that from bare perusal of complaint, no offence is made out against the petitioner and he has been falsely implicated in the present case, without there being any incriminating material in support of the same.

4.2 Again contended that investigation commenced on 01.08.2018; present complaint was filed on 11.06.2021 i.e. after a period of 02 years and 10 months; petitioner was arrested on 28.04.2022 and since then he is in custody.

4.3 Further contended that main accused namely, Anil Jindal, Bishan Bansal and Nanak Chand Tayal have been granted bail pending trial by Hon'ble the Supreme Court on 04.12.2024 in SLP(Crl.) No.8433 of 2024.

4.4 Also contended that petitioner was never summoned to appear before the SFIO during investigation till the filing of complaint; nor he was ever called for recording the statement unlike all other co-accused.

4.5 Further contended that petitioner was neither paid any salary; nor other remuneration in lieu of services rendered by him as Non-Executive Director in the SRS Modern Sales Ltd. and he had no knowledge about the affairs of company.

4.6 Again contended that there are total 81 accused arraigned in the complaint and out of them, 27 are yet to appear. Further contends that prosecution has cited 248 witnesses to prove the allegations levelled in the complaint and records are running into more than 18,000 pages; thus, trial would be a lengthy exercise.

4.7 Still further contended that although complaint was filed on 11.06.2021, but charges are yet to be considered; hence, trial is not likely to be concluded in the near future. Again contended that maximum sentence for the alleged offence is 10 years and petitioner has already remained in custody for more than 02 years and 10 months; as such, further incarceration would not serve any purpose.

4.8 Lastly contended that petitioner is suffering from various ailments, including dumping syndrome, for which he needs to be taken to hospital for regular treatment after every 15 days; thus the rigors of twin test deserves to be diluted in the present case.

4.9 In support of the above contentions, learned counsel has also placed reliance on judgement of this Court rendered in "***CRM-M-57948-2024*** titled as "***Sikander Singh Versus Directorate of Enforcement***" (Decided on 31.01.2025).

5. <u>ON BEHALF OF THE RESPONDENT:-</u>

5.1 *Per contra*, learned counsel for SFIO, while opposing the prayer, submits that petitioner is not entitled for bail in view of his involvement in serious economic offence.

5.2 Further submits that petitioner was part of syndicate running SRS group of companies, including SRS Modern sales limited, SRS Shining Ornaments Limited & BTL Portfolio limited (BTL), which suppressed vital information and submitted wrong as well as misleading financial statements in order to fraudulently avail huge loan amounts from various Banks.

5.3 Again submits that SRS Modern Sales Ltd. has outstanding loan liability of Rs. 85.62 Crore and moreover, the credit facility was fraudulently availed on the basis of manipulated Working Capital Limit.

5.4 Also submits that aforesaid company, through network of co-accused companies, fraudulently diverted the funds of lender banks by showing circular transactions of sale and purchase which resulted into inflated sale consideration of Rs. 2614.16 Crore during the years 2010-11 to 2016-17.

5.5 Further submits that petitioner was having 500 shares in SRS Banquets & Resorts Ltd.; he purchased 55,000 shares of SRS Modern Sales Ltd. from co-accused SRS Automotive Components Pvt. Ltd.; shown as debtor to the tune of Rs. 1.10 Crore and which was further transferred in favour of co-accused-Sanjay Singla.

5.6 Still further submits that petitioner had also filed an application under Section 479 of BNSS for seeking bail, but the same was dismissed by learned Special Court on 20.12.2024 and the same has not been challenged so far.

5.7 Lastly submitted that apart from the present case, petitioner is involved in 22 more criminal cases; but the same have not been disclosed by him; thus, bail application deserves to be dismissed on the ground of active concealment as well as supression of material facts from this Court.

6. Heard learned counsel for the parties and perused the paper-book.

7. As pointed out by learned counsel for the respondent that apart from present case, petitioner is facing 22 other criminal cases, but the same have not been disclosed for the reasons known to him; thus, there is an active concealment on his part. In the absence of complete details of other 22 pending criminal cases against the petitioner, it is very difficult to comprehend about the allegations in those cases and the impact thereof on the present bail matter.

8. However, it is worthwhile to mention here that as per Rule 5 of Chapter 1-A(b) Volume-V of the Rules and Orders of Punjab and Haryana High Court, in every application for seeking bail, it is obligatory for the petitioner to disclose the details of pending/decided criminal cases against him and for reference, the relevant part of the rule (*ibid*) is extracted as under:-

> ***"5. Bail applications**.-In every application for bail presented to the High Court the petitioner shall state whether similar application has or has not been made to the Supreme Court, and if made shall state the result thereof. The petitioner/applicant shall also mention whether he/she is/was involved in any other criminal case or not. If yes, particulars and decisions thereof."*

A perusal of the aforesaid extract clearly indicates that petitioner was bound to disclose the pendency of other 22 criminal cases; but he knowingly and deliberately failed to do so.

9. *A fortiori*, "now it is well settled law that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final. Suppression of material facts from the Court of law, is actually playing fraud with the Court. The maxim *supressio veri, expressio falsi* i.e. suppression of the truth is equivalent to the expression of falsehood, gets attracted" vide para-7, "***Kusha Duruka Versus The State of Odisha***" (Criminal Appeal No.303 of 2024, decided on 19.01.2024 by Hon'ble the Supreme Court).

10. In view of the above, there remains no doubt that petitioner has not approached this Court with clean hands while claiming the discretionary relief; rather suppressed the material facts regarding pendency of 22 criminal cases.

11. Although, learned counsel for the petitioner tried to make an endeavour for claiming parity with Anil Jindal, Bishan Bansal & Nanak Chand Tayal; but the same would be of no help for the reason that all those three co-accused remained in custody for a period of more than six and a half years. For reference, relevant part of the order dated 04.12.2024 in SLP(Crl.) No.8433 of 2024, passed by Hon'ble the Supreme Court is recapitulated as under:-

> *"Having regard to the period of incarceration suffered by the appellants, namely, Anil Jindal, Bishan Bansal, and Nanak Chand Tayal, which is more than six and a half years, and as the trial in the present cases is at the initial stage, we accept the present appeals. Accordingly, we direct that the appellants, namely, Anil Jindal, Bishan Bansal, and Nanak Chand Tayal, will be released on hails during the pendency of the prosecution/trial in COMA No. 17/2021, titled "Serious Fraud Investigation Office v. SRS Limited and others', on terms and conditions to be fixed by the trial Court."*

12. Since there is an active concealment on the part of petitioner regarding pendency of 22 other cases; therefore, ***Sikandar Singh's case (supra)*** would also be of no assistance while seeking discretionary relief. Moreover, that was a bail matter under PMLA and has been decided while taking into consideration its own facts & circumstances; thus, petitioner cannot take any benefit of the same.

13. Consequently, there is no option, except to dismiss the petition.

14. Ordered accordingly.

15. It is clarified that observations made here-in-above, shall have no bearing on the merits of complaint pending before learned Special Court, in any manner.

Pending criminal misc. application(s), if any, shall also stand disposed off.

10.03.2025
SN

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable: Yes/No