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

CRM-M-761-2025 (O&M)
Date of decision: 10.03.2025

Sushil Singla ...Petitioner

Versus

Serious Fraud Investigation Office ....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Keshav Pratap Singh, Advocate,
for the petitioner.

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

<u>MAHABIR SINGH SINDHU, J.</u>

Present **second** petition has been filed, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short, "BNSS"*), 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 Section 36(c) read with Sections 447 & 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 applied for bail pending trial before learned Special Court; but the same was dismissed on 02.06.2021. He again filed application for bail before learned Special Court and the same too was dismissed on 31.01.2022. Against this order, petitioner approached this Court; but remained unsuccessful vide order 17.10.2022 passed in CRM-M-11712-2022. Thereafter, he filed SLP (Crl.) Diary No. 2108 of 2023, but the same was dismissed as withdrawn on 17.03.2023. Lastly, he again approached learned Special Court, but his prayer was declined vide order dated 13.09.2024; 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.*
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> *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 to that effect.

4.2 Again contended that investigation commenced on 01.08.2018; however, present complaint was filed on 11.06.2021 i.e. after a delay of 2 years and 10 months; petitioner was arrested on 12.04.2021 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 maximum punishment for the alleged offence is 10 years and petitioner has already undergone one-third of the same; thus, he deserves the concession of bail as per the provisions of Section 479 of BNSS.

4.5 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.

4.6 Still further contended that although complaint was filed on 11.06.2021, but charges are yet to be considered; thus, trial is not likely to be concluded in the near future. Lastly contended that maximum sentence for the alleged offence is 10 years and petitioner has already remained in custody for more than 03 years and 10 months; thus, further incarceration would not serve any purpose.

4.7 In support of the above contentions, learned counsel has 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 On the other hand, learned counsel for SFIO, while opposing the prayer, submits that petitioner is not entitled to any relief in view of his involvement in commission of serious economic offence.

5.2 Further submits that petitioner was part of syndicate running SRS group of companies, including SRS Modern sales limited, Lisbon Facilities Services limited (Lisbon) & BTL Holding Company limited (BTL); which suppressed vital information and submitted wrong as well as misleading financial statements to fraudulently avail huge loan amounts from various Banks.

5.3 Again submits that SRS Modern Sales Ltd. has outstanding loan liability of Rs. 75.69 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 in inflated sale consideration of Rs. 2437.86 Crore during the years 2010-11 to 2015-16.

5.5 Still further submits that in case of Lisbon and BTL, loans and advances provided to SRS Group of companies, were not reflected as related party transactions during the years 2010-11 to 2016-2017.

5.6 Again submits that petitioner had also received an amount of Rs.20 lakh as Director's remuneration from a company associated with SRS group in which he had no work to perform.

5.7 Also submits that an amount of Rs.191.55 lakh had been transferred from SRS Group companies to the entities associated with petitioner, under the guise of "other payments".

5.8 Lastly submitted that petitioner filed an application under Section 479 of BNSS and the same was dismissed by learned Special Court on 20.12.2024; but the same has not been disclosed by him; thus, bail application deserves to be dismissed on the ground of active concealment as well as suppression 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 respondent, petitioner filed an application under Section 479 of BNSS and which has been dismissed by learned Special Court on 20.12.2024, while observing as under:-

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> *2. Applicants/accused, namely accused No.9 Anil Jindal, accused No.10 Bishan Bansal, **accused No.11 Sushil Singla**, accused No. 12 Rajesh Singla, accused No.13 Nanak Chand Tayal and accused No.31 Bhagwan Dass moved six separate applications (pertaining to COMA-17/2021) before the Superintendent, District Jail Faridabad thereby making a prayer to forward the same to the Trial Court, with prayer(s) to release them from custody by extending benefits of Section 479 of BNSS and said applications were received in this Court on 02.12.2024 and accordingly notice of the same was issued to the*

complainant/SFIO and in compliance of the same, complainant/SFIO has filed replies thereto.

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5. Accused Sushil Singla has submitted that he is in custody in this case since 15.04.2021 and that his case is covered under provisions of Section 479 of BNSS and he be released from judicial custody.

6. Vide information supplied by the office of Superintendent, District Jail, Faridabad, it has been mentioned that six cases are pending/instituted against the said accused.

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11. Vide separate replies filed on behalf of complainant/SFIO, prayer of the above named applicants-accused has been resisted, thereby mainly submitting that said accused are accused of offences which attract punishment of imprisonment up-to ten years and applicants-accused are facing trials in multiple cases and as such, in view of provision under Section 479(2) of BNSS, a person who is facing inquiry/investigation/trial in more than one offence or in multiple cases, is not entitled to be released, on bail, in terms of provision of Section 479 of BNSS.

12. After considering the entirety of facts and circumstances, especially the report submitted by the concerned Jail Superintendent, this Court is of the considered opinion that no case for extending benefit under the provision of Section 479 of BNSS is made out, so far as aforesaid accused persons are concerned.

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16. As already noticed, all the three accused namely, Sushil Singla, Rajesh Singla, Bhagwan Dass Gupta are facing trials in multiple cases, as per the information supplied by concerned Jail Superintendent, therefore, no occasion arises to entertain the applications moved on

> *behalf of aforesaid accused persons and accordingly all the three applications of the applicants-accused. namely, Sushil Singla, Rajesh Singla, Bhagwan Dass Gupta stand disposed of."*

A bare perusal of above extract reveals that bail application of petitioner filed under Section 479 BNSS was dismissed by learned Special Court; but the same has not been disclosed for the reasons best known to him; thus, there is an active concealment on his part.

8. *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).

9. In view of the above, this Court is of the opinion that petitioner was bound to disclose the factum of dismissal of his application filed under Section 479 of BNSS before learned Special Court; but he knowingly failed to do so.

10. Thus, considering the ratio of law laid down in ***Kusha Duruka's case (supra),*** 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 application filed under Section 479 BNSS before learned Special Court and which was dismissed on 20.12.2024.

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 dismissal of the application on 20.12.2024 by learned Special Court; therefore, ***Sikandar Singh's case (supra)*** would also be of no assistance while seeking discretionary relief. Moreover, that was a 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 **(MAHABIR SINGH SINDHU)**
SN **JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable: Yes/No