$~15

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

\+ CRL.M.C. 1399/2021, CRL.M.A. 8843/2021 (stay)

**DEPUTY DIRECTOR DIRECTORATE OF ENFORCEMENT**

.....Petitioner

Through: Mr. Vivek Gurnani, Panel Counsel for ED.

versus

**YASMIN KAPOOR** .....Respondent

Through: Mr. Tanveer Ahmed Mir, Senior Advocate with Mr. Kshitij Kumar, Advocate.

**CORAM:**
**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

**O R D E R**

**%** **19.08.2025**

**CRL.M.C. 1399/2021**

1. Petition under Section 439(2) of the Code of Criminal Procedure, 1973 *(hereinafter referred to as 'Cr.PC')* read with Section 482 of Cr.P. C., has been filed on behalf of the Petitioner/Deputy Director Directorate Of Enforcement, for **setting-aside the Order dated 13.12.2019** of the learned Special Judge (PMLA) whereby the ***Respondent/Yasmin Kapoor*** has been granted Regular Bail in ECIR/HQ/13/2017.

2. It is submitted that pursuant to the Order dated 05.01.2017 of the Apex Court in SLP (Civil) No. 25545/2012, titled '*Centre for Public Interest Litigation vs. Union of India*', the CBI registered a Criminal Case against the officials of Ministry of Civil Aviation, NACIL, Air India and unknown

private persons *vide* FIR No.RC-DAI-2017-A-0022 dated 29.05.2017 under Section 420 and 120-B of the Indian Penal Code, 1860 (*hereinafter referred to as 'IPC*') and Sections 13(2) read with Section 13(1) (d) of the Prevention of Corruption Act, 1988. Since the offences were scheduled offences under PMLA and involved generation of proceeds of crime, *ECIR/HQ/13/2017 was recorded on 17.08.2017 and the investigations were initiated by the Petitioner.*

3. It was alleged that the officials of Ministry of Civil Aviation, NACIL, Air India abused their official positions and received illegal gratification, in conspiracy with other public servants, private, domestic and foreign airlines to make the national carrier give up profit making routes and profit-making timings of Air India in favour of other National and International, domestic and foreign private airlines. This resulted in a huge loss to the National Carrier and also resulted in pecuniary benefits to other private domestic and foreign airlines.

4. It was further alleged that the main Accused, Deepak Talwar took undue advantage of his proximity with various Government officials and public servants, to obtain favourable Air Traffic rights for Emirates, Air Arabia and Qatar Airlines by acting as a middle-man and lobbyist for these airlines. Pertinently, entities directly/indirectly controlled by the Accused, Deepak Talwar, namely, *M/s Asia Field (a BVI Company*) and *M/s Gilt Asset Management)* received proceeds of crime amounting INR 127,69,23,483/- and INR 144,32,70,000/- respectively, from the foreign airlines. Further investigations are underway to trace the flow of proceeds of crime amounting to the amounts as mentioned above.

5. Soon after the investigations were initiated, main Accused Deepak

Talwar evaded the process of law and left India in October, 2017. Mr. Aditya Talwar, son of Deepak Talwar also took up the citizenship of Antigua and Barbuda and till date, has refused to join the investigations.

6. ***Deepak Talwar*** was deported from Dubai, UAE and subsequently, arrested on 31.01.2019. He was sent to Judicial Custody on 14.02.2019 and is presently on Bail. The role of the Respondent in the instant case came to light during his Remand.

7. The Respondent filed an Application seeking Anticipatory Bail dated 02.02.2019, which was granted and confirmed *vide* Order dated 22.03.2019 by the learned Special Judge. In the meantime, the Prosecution Complaint was filed against Deepak Talwar and Aditya Talwar on 30.03.2019 with the permission to file supplementary Complaint as the further investigations were ongoing. The trail of money was deciphered and linked to the proceeds of crime laundered through M/s Asia Field Ltd.

8. In the meanwhile, Deepak Talwar filed an Application for grant of Bail before this Court, which was dismissed *vide* Order dated 19.09.2019, owing to the conduct of the Accused persons and their interference with the administration of justice/investigations. Clinching proof of the Respondent's involvement in the destruction of crucial evidence of the case and influencing key witnesses, came to light resulting in cancellation of her Anticipatory Bail *vide* Order dated 23.09.2019.

9. The Respondent was arrested on 23.09.2019 and the Petitioners sought her custodial interrogation on 03.10.2019, which was granted by the learned Special Judge (PMLA) till 18.10.2019 *vide* Orders dated 03.10.2019 and 09.10.2019.

10. On 30.11.2019, the 1st Supplementary Prosecution Complaint dated

29.11.2019 was filed before the learned Special Judge, PMLA, on which the process was issued to the Respondent and others. The role of the Respondent in the commission of the offence of money laundering was highlighted. Clinching evidence had come on record to show her complicity.

11. ***The role of the Respondent,*** as highlighted in the Prosecution Complaint, was that she is an active aide of Deepak Talwar and a participant in the commission of the offence, involving proceeds of crime to the tune of INR 272 Crores. She is a Director/Shareholder/Trustee in many of the Companies/entities/trusts created by Deepak Talwar in India and abroad.

12. The proceeds of crime have been used for acquisition of the property where the Respondent resides and she is the beneficial owner of the same. She is the trustee and beneficiary of the Sunrise Trust. The rent paid to Gulshan Promoters (beneficiary being the Respondent and her daughters) for the said property is a face and she is utilizing the property and the payments were of personal benefits. She is a Director in M/s Garbil Trading Ltd. and Proceeds of crime to the tune of INR 89.62 Crores approximately have been transferred from Bank of Singapore Account No. 402373 of M/s Gilt Asset Management to the Bank Account of M/s Garbil Trading Ltd. in the Bank of Singapore Account No.401417. M/s Gilt Asset Management has received proceeds of crime amounting to INR 144 Crores approximately in the instant case. Further investigation with regard to the trail of money in this regard, is ongoing.

13. The Respondent is a Director in M/s Store Travels Pvt. Ltd. wherein proceeds of crime to the tune of INR 1.21 Crores approximately have been transferred from the Bank of Singapore Account No.402373 of M/s Gilt Asset Management. M/s Gilt Asset Management is in receipt of the proceeds

of crime amounting to approximately INR 144 Crores.

14. The Respondent had directed Ms. Neeru Dua, Director of Stone Travels Pvt. Ltd. to delete important emails which were relevant for the investigation and has thus, tampered with evidence.

15. The Respondent filed a ***Bail Application on 04.12.2019, which has been allowed vide Impugned Order dated 13.12.2019***.

16. The **Bail is challenged on the grounds** that the same is against the facts and circumstances of the case. It has been overlooked that there is likelihood of tampering with evidence and influencing of witnesses causing a grave threat to proper investigations of the case. It has been overlooked that the Anticipatory Bail that was granted to the Respondent earlier, had been cancelled *vide* Order dated 23.09.2019 on the ground of tampering with evidence and influencing the witnesses. It has not been considered that once an accused's bail is cancelled in extraordinary circumstances like in this case, the aforesaid discretion of granting Bail, deserves to be exercised more cautiously given the character/antecedents of the Accused. Reliance is placed upon the Judgment of the Hon'ble Supreme Court of India in *State of U.P. vs. Amarmani Tripathi*, (2005) 8 SCC 21.

17. It is submitted that the learned Special Judge committed an error in recording that merely because evidence of the witness-Ms. Neeru Dua, whom she had tried to influence, has been recorded, she deserves Bail, even though on the same ground, her Anticipatory Bail had been earlier cancelled. In fact, the Order dated 23.09.2019 recorded the astute tendency of the Respondent, to tamper with evidence and influence the system. It has been overlooked that these are relevant factors while granting the Bail, which has been granted in a routine and mechanical manner. The material on record

has been ignored. The investigations are at a very crucial stage as the investigations are still ongoing. The witnesses, who have been identified both in India and abroad, are in the process of being examined. If the Respondent is enlarged on Bail, she would most definitely, whether directly or indirectly, ensure that the persons who were in the know of things, including banks, financial institutions and others with whom the investigation was being followed-up, do not disclose the true state of affairs to the Investigating Agency.

18. Further reliance has been placed on *Kanwar Singh Meena vs. State of Rajasthan*, (2012) 12 SCC 180; *Gurcharan Singh vs. State (Delhi Admn*.), [(1978) 1 SCC 118]; *Prahlad Singh Bhati vs. NCT, Delhi*, (2001) 4 SCC 280; *State of U.P. vs. Amarmani Tripathi*, [(2005) 8 SCC 21]; *State of Maharashtra vs. Vishwanath Maranna Shetty,* (2012) 10 SCC 561; *Raju Premji vs. Customs NER Shillong Unit and Arun vs. D. Pakyntein*, (2009) 16 SCC 496; *Rohit Tandon vs. Enforcement Directorate*, (2018), 11 SCC 46 and *Union of India vs. Hassan Ali Khan and Anr*., (2011) 10 SCC 23.

19. ***It is, therefore, submitted that the Order dated 13.12.2019 vide which the Bail has been granted to the Respondent, be set-aside.***

20. **Ms. Yasmin Kapoor, the Respondent in her Counter-Affidavit**, has submitted that the contents of the Petition *ex facie* do not make out a case of any interference in the Order dated 13.12.2019 *vide* which the Bail has been granted to the Respondent. There is no element of perversity in the Impugned Order, which is well-reasoned and contains the factual narrative of the case and the evidence collected in the Complaint.

21. Reliance has been placed on *Arulvelu & Another vs. State,* (2009) 10 SCC 206 wherein it was observed that perversity is made out when the

Court of competent jurisdiction returns a *finding which is not only against the weight of evidence but altogether against the evidence itself.* Where the findings of the learned Court is such that no reasonable person would have arrived at that finding in the first place, may be termed as perverse.

22. It is well-settled proposition of law that the Bail granted to an Accused in a case, cannot be sought to be cancelled or quashed only on the argument of gravity or seriousness of offence, which is the essence of challenge in the Petition.

23. It is submitted that there is a vast difference between the law for grant of Bail and that relating to cancellation. The gravity of the offence has already been considered by the learned Special Judge while granting Anticipatory Bail to the Respondent and even while granting Regular Bail to the Respondent. The Petitioner did not oppose the Bail Application on the merits of the case inasmuch as the detailed analysis and adjudication was already done while granting Anticipatory Bail *vide* Order dated 23.03.2019 to the Respondent. The Petitioner never laid any challenge to which the Anticipatory Bail granted to the Respondent, in the first instance.

24. It is further submitted that the *cancellation of Bail* is sought on the grounds of tampering with evidence and influencing the witnesses, which is farcical, far-fetched and is not based on facts or law. The learned Special Judge has considered both these grounds in detail in the Impugned Order while granting Bail. Post the arrest of the Respondent, she had undergone sustained custodial interrogation. The allegations against her have been crystalised by way of *Supplementary Prosecution Complaint* which has already been filed before the learned Special Judge, PMLA. There are no further allegations qua the Respondent post the grant of Regular Bail nor has

she made any attempt to either tamper the evidence or influence the witnesses.

25. The allegations which led to the cancellation of the Anticipatory Bail, pertained to *securing favours for co-accused while he was in judicial custody*, but that does not come within the realm of tampering with the evidence or influencing the witnesses. These aspects have been duly considered by the learned Special Judge while granting Bail.

26. Furthermore, the allegations made by the Petitioner is that during the investigations of the Case, the *Respondent tried to influence Ms. Neeru Dua by directing her to destroy the relevant e-mails*. However, the statement of Ms. Neeru Dua under Section 50 of PMLA, had been recorded on 14.08.2019, to which no reference has been made. The perusal of the aforesaid Statement does not indicate any kind of influencing her by the Respondent and no such influence brought out from her Statement.

27. The Petitioner has claimed that the investigations in the instant case, is still ongoing. However, the Supplementary Charge-Sheet has already been filed against the Respondent. There may be investigations undergoing against the other persons or to trace out the *proceeds of crime* but insofar as the Respondent is concerned, the investigations already stand concluded against her. The Respondent cannot be denied Bail in perpetuity merely on the basis of pending investigations against others.

28. The Petitioner has further contended that the Bail be cancelled on the ground that she if enlarged on Bail, she would ensure that the Bank Financial Institutions, and other persons with whom the investigation is being followed-up, would not disclose the true state of affairs to the Investigation Agency and that the Respondent may destroy the evidence and

record. However, the Applicant has not placed on record even an iota of evidence to show that since got admitted to Regular Bail on 13.12.2019. she has in any manner acted otherwise. These are only allegations based on conjectures and surmises, which have no basis.

29. The Petitioner's contention that the Respondent had acted in a recalcitrant manner during the interrogation and deliberately withheld information, cannot be a ground for Regular Bail even less for cancellation of the Bail already granted. The entire evidence is documentary in nature. The residence and official premises of the Respondent, have already been searched and seizures made. Therefore, it is unimaginable that the Respondent would hamper the investigations in any way.

30. Insofar as the evasion of process of law by Mr. Aditya Talwar and Mr. Neel Patankar who have left the country and acquired foreign citizenship is concerned, there is no basis to argue that the Respondent would similarly evade the process of law. The presence or absence of the other co-accused, can have no bearing on the case of the Respondent especially when they are not in her control.

31. Reliance is placed on *Padmakar Tukaram Bhavnagare & Another vs. State of Maharashtra & Another,* (2012) 13 SCC 720 and *Dr. Mohd. Sohail Fazal vs. State of NCT Delhi*, (2012) 4 DLT (Cri) 10. It is, therefore, submitted that there is no infirmity in the impugned order granting her Bail.

32. Further reliance is placed on *State of NCT of Delhi vs. Sanjeev Chawla,* CRL.M.C. No.1468/2020, decided on 06.05.2020; *ED vs. Ratul Puri,* (2020) SCC OnLine 97 wherein this Court had dismissed the challenges to the Bail granted to the Accused by observing that there were no supervening circumstances of misconduct or attempt on the part of the

Accused, to thwart the process of justice.

33. *It is, therefore, submitted that the present Application is without merit and be dismissed.*

34. **Rejoinder Affidavit has been filed on behalf of the Petitioner** wherein essentially, the same facts have been reiterated.

35. **Written Submissions** have been filed on behalf of both the parties.

**Submissions heard and the record perused.**

36. The Petitioner had registered a Complaint No. RC-DAI-2017-A-0022 dated 29.05.2017, in which the main Accused was Deepak Talwar, against whom the Complaint already stands filed in March, 2019. Here is a case that the Respondent was granted Anticipatory Bail after considering all the circumstances including the gravity of offence on 22.03.2019, which Order never got challenged by the Petitioner. It was a detailed Order wherein all the relevant factors including **the triple test,** was considered.

37. Thereafter, the Anticipatory Bail was **cancelled *vide* Order dated 23.09.2019 on two grounds -** (i) *She tried to influence the witnesses* and (ii) *she tried to influence the authorities against the main Accused, Deepak Talwar.*

38. Insofar as, the ***first ground*** of influencing the witnesses is concerned, it has been dealt with by the learned Special Judge in the Impugned Order dated 13.12.2019 while granting Regular Bail. It was observed that the concern of the Investigating Agency regarding possible influence of the named witness, has been taken care of as the Statement of the said witness namely, Ms. Neeru Dua, already stands recorded while the Respondent was in judicial custody.

39. It is pertinent to note that because of an attempt to influence the

witness, she suffered the consequence of her Anticipatory Bail being cancelled on 23.09.2019 and being arrested on the same day. Thereafter, while she was in Judicial Custody, her custodial interrogation was done and after concluding the investigations and recording the Statement of the witnesses, the Complaint got filed against her in the Court on 30.11.2019. It has been rightly observed by the learned Special Judge that the fear of influencing the witnesses stood sufficiently addressed as the investigations were duly completed while she was in judicial custody.

40. The ***second ground*** on which the cancellation sought, was that she had tried to influence the Agencies against Deepak Talwar. However, it cannot be overlooked that Deepak Talwar was the main Accused and the Charge-Sheet against him, had already been filed in March, 2019 i.e. prior to her being taken in judicial custody since 23.09.2019. Moreover, he also has been granted Regular Bail. If influence on the Authority, if any, was to be exercised that would be done by Deepak Talwar and there is no occasion left for the Respondent, to try to influence the authorities. This is more so as the Complaint against Deepak Talwar as well as the Supplementary Complaint against the Respondent, already stands filed.

41. These two aspects have been duly considered by the learned Special Judge while granting the Bail. The contentions of the Applicant, to seek cancellation of Bail, on these two grounds, is totally not untenable.

42. Before concluding, it may be observed that the consequence of the Respondent not abiding by the terms of the Anticipatory Bail granted to her *vide* Order dated 22.03.2019, was that she suffered the cancellation of Anticipatory Bail and was taken in judicial custody on 23.09.2019 and was throughout in Judicial Custody while the investigations were ongoing. The

Charge-Sheet got filed against her on 30.11.2019 and was admitted to Bail thereafter, on 13.12.2019.

43. Since then, there is not a single averment of there being any violation of the Bail conditions. Mere dereliction at one point of time for which she has already suffered the consequences, cannot be stretched to perpetuity. She having proved her conduct by joining investigations and the Charge-Sheet being filed, cannot be barred from getting the Bail ever.

44. The learned Special Judge has rightly considered all the facts and circumstances to grant the Bail *vide* Order dated 13.12.2019, the conditions of which have not been violated ever by the Respondent.

45. In view of the aforesaid discussion, there is no merit in the present Petition, which is hereby dismissed and disposed of accordingly.

**NEENA BANSAL KRISHNA, J**

**AUGUST 19, 2025/RS**