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

+ **CRL.A. 886/2024 & CRL.M.(BAIL) 1576/2024**

SHIV KUMAR VERMA

.....Appellant

Through: Mr. Manu Minocha, Adv.
versus

CENTRAL BUREAU OF INVESTIGATION

.....Respondent

Through: Mr. Rajesh Kumar, SPP with Ms.
Mishika Pandita, Mr. Mohd. Changez
Ali Khan & Mr. Yash Narain, Adv.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

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30.01.2025

1. This hearing has been done through hybrid mode.

CRL.M.(BAIL) 1576/2024

2. The present application under Section 430 of the BNSS seeks suspension of sentence and release of the applicant/appellant on bail during pendency of the instant appeal and stay on the conviction of the appellant/applicant in RC No. DST/2017/A/0004/CBI/STB/N.D. under Sections 120B read with 420/471 of the IPC and Sections 13(2)/13(1)(d) of the Prevention of Corruption Act, 1988 (hereinafter referred to as 'PC Act'.)

3. *Vide* the judgment of conviction dated 07.09.2024, the appellant/applicant has been convicted under Sections 120B read with 420 of the IPC and Section 13(1)(d) of the PC Act. *Vide* the order on sentence dated 07.09.2024, the appellant/applicant has been sentenced to undergo rigorous imprisonment for a period of 4 years under Section 120B read with Section 420 of the IPC and Section 13(1)(d) of the PC Act alongwith fine of Rs.



75,000/- and in default of payment of fine simple imprisonment for 3 months.

4. The case of the prosecution was that the officers of the then Corporation Bank (now Union Bank of India) had sanctioned a credit loan to one Mr. Sudhir Kumar Verma, Proprietor of M/s Supreme Steels based on the security of the stock in trade and collateral of an industrial property at Khasra No. 476 and 477 in Patel Marg, Village Bhonja, District Ghaziabad, which was valued at 4.34 crores. The present appellant/applicant is stated to be the middleman who facilitated loan in the present case and it was alleged that he has received an amount of Rs. 15 lakhs for the same.

5. It is further alleged that Aali Branch of the said bank disbursed Corporate Vyapar OD loan of Rs. 3.10 crores to said Sudhir Kumar Arora. It is further alleged that the loan account became a Non-Performing Asset (in short 'NPA') on 16.12.2013. It is further alleged that serious irregularities were noted and it was alleged that collateral security was found to be overvalued to Rs. 4.34 crores by one M/s S & G Advisory Services Pvt. Ltd., whereas the property was valued by another valuer at Rs. 1.45 crores on 03.04.2014. It was alleged that the credit limit was thereafter siphoned off to sister associate concern of the borrower (Mr. Sudhir Kumar Arora). The allegations were with respect to misusing the bank finance, diverting the funds, non-compliance of sanction terms, non-conducting of post sanction visits, non-verification of genuineness of title deeds etc.

6. Learned counsel for the appellant/applicant submits that as far as the appellant/applicant is concerned, the prosecution witness with regard to the commission received by the present appellant/applicant, i.e., PW-11 did not support the case of the prosecution and turned hostile. Furthermore, PW-29 and 30, the IO(s) of the case stated that they did not find any money trail



regarding the loan leading to the appellant/applicant.

7. Learned counsel appearing on behalf of the appellant/applicant draws attention of this Court to cross-examination of PW-29 wherein it has been recorded as under:-

“It is correct that during the course of the investigation, it surfaced that there was a business deal between Sudhir Kumar Arora and Shiv Kumar Verma for purchase of iron scrap. It is correct that Mr. Sudhir Kumar Arora had made a payment of Rs. 91 lacs (approx.) to Mr. Shiv Kumar Verma for the purchase of iron scrap which evident from the statement of account of the borrower firm with its corresponding entries in the account of firm of Shiv Kumar Verma.

It is correct that Mr. Shiv Kumar Verma was interrogated during the course of investigation by me in the present case. It is correct that Mr. Shiv Kumar Verma had informed me during the course of interrogation that he had returned the entire Rs. 91 lacs (approx.) to Mr. Sudhir Kumar Arora as the iron scrap deal was not matured. Vol. the entire payment of Rs. 91 lacs was excluding the payment of Rs. 15 lacs.”

8. It is further submitted that the co-convicts Sudhir Kumar Arora (Borrower) and B.P. Singh (Valuer) have been granted bail after suspension of sentence by a co-ordinate Bench of this Court in Crl.M.(Bail) 1543/2024 in Crl. Appeal No. 867/2024 and Crl.M.(Bail) 1519/2024 in Crl. Appeal No. 852/2024 *vide* judgment dated 30.09.2024 and 09.12.2024, respectively.

9. While disposing of the criminal miscellaneous bail in respect to co-convict Sudhir Kumar Arora, the co-ordinate Bench had observed and recorded as under:

“16. Upon an overall conspectus of facts and circumstances of the case, based on what has been argued by both sides, and based on the documents on record, what prevails with the court at this stage, is that certain critical aspects as tabulated by the learned Trial Court in the table appearing in para 16 of the impugned judgment appear to be incorrect on point of fact, since they are not borne-out by the record.



17. The tabulated summarisation of the ‘factual’ aspects of the case as appearing in the judgement, on which the learned Trial Court has obviously relied, are contrary to what the prosecution witnesses have said, especially to what has come through during the cross-examination of the I.O. This tabulated summary was obviously the basis of the decision of the learned Trial Court, since the opening words of para 16 of the impugned judgment read : “*For the convenience of the decision in this matter, the following List of Dates showing the chronology of events has been culled out*”.

18. It is therefore on the basis of the above-referred tabulated summary, that the appellant has (effectively) been awarded a custodial sentence of 05 years of rigorous imprisonment, in addition to fine. All these aspects require re-consideration in appeal.”

10. Similarly, in respect of order granting suspension of sentence of the co-convict B.P. Singh, the co-ordinate bench of this Court has observed and held as under:-

“20. Though much has been argued on behalf of the parties, upon an overall conspectus of the facts and circumstances of the case, and based on the record, what is clear is that the mainstay of the CBI case against the appellant was that he had overvalued the subject property in his valuation report submitted to the bank; and the learned trial court has returned a finding against the appellant on that aspect. However, what is also seen from the record is that in the course of his cross-examination, the I.O. has admitted that *he had not conducted any independent investigation* whatsoever to conclude that the property had been overvalued by the appellant; and in fact the I.O. has said in his cross-examination that he had *no basis to believe that the valuation report prepared by the appellant was not objective*. It is also evident that the learned trial court has accepted the CBI’s contention that *merely because* two other property-valuers have ascribed different values to the subject property, in a year different from the year in which the appellant had valued the property, that is sufficient to prove that the appellant had overvalued the property. Therefore, the opinion of an expert as



to the fair value of the subject property has been sought to be disproved by the opinions of two other experts in relation to the same property, without any independent investigation having been conducted into what might have been the true value of that property.

21. Suffice it to say at this stage, that the aforesaid aspects require deeper consideration in appeal.

22. It also bears mentioning that the sentence awarded to co-convict Sudhir Kumar Arora has already been suspended during the pendency of the appeal vide order dated 30.09.2024 passed by this Bench in CRL.A. No.867/2024, on the ground that certain critical aspects which formed the basis of conviction by the learned trial court appear to be incorrect on point of fact, since they are not borne-out by the record.”

11. *Per contra*, earned SPP for the CBI submitted that the present appellant/applicant is involved in various other similar offences where the prosecution is still pending.

12. On the last date of hearing, i.e., on 24.01.2025, the matter was put up for clarifications. It was noted that in the impugned order on sentence dated 07.09.2024, the present appellant/applicant was released on interim bail in pursuance of the order 24.07.2024 passed by a Coordinate Bench of this Court in Crl. Appl. no. 349/2024 and 379/2024 for a period of 8 weeks till 14.09.2024 in order to enable him to undergo cataract surgery which was scheduled for 09.09.2024. Thereafter, the present appellant sought extension of the said interim bail by way of an application for a period of 20 days on 13.09.2024; however, the same was rejected by the learned Trial Court and he was directed to surrender before the jail authorities on 18.09.2024 *vide* an order dated 13.09.2024. Learned counsel for the appellant/applicant was asked to place on record order(s) extending the interim bail granted to the appellant/applicant after the order dated 13.09.2024, through which he was



directed to surrender on 18.09.2024. Besides, a fresh Nominal Roll was also directed to be requisitioned.

13. Learned counsel for the appellant/applicant has handed over a compilation of orders in compliance of the previous order dated 24.01.2025, and the same is taken on record.

14. So far as the other cases pending against the present appellant/applicant are concerned, the nominal roll dated 29.01.2024 shows that the appellant/applicant is presently on bail in the said cases. On a perusal of the compilation of bail orders handed over by the learned counsel for the appellant/applicant, it is seen that after the order dated 13.09.2024, whereby the interim bail granted to the appellant/ applicant was extended till 18.09.2024; his interim bail was further extended on various occasions by orders passed by the learned Special Judge (PC Act), CBI-21, Rouse Avenue Courts Complex from time to time *vide* orders dated 18.09.2024, 21.09.2024, 27.09.2024, 30.09.2024, 07.10.2024, 16.10.2024, 08.11.2024, 18.11.2024, 26.11.2024, 11.12.2024, 13.12.2024, and 23.12.2024. *Vide* order dated 23.12.2024, the appellant/applicant's bail was further extended till 13.01.2025, on which date he was directed to surrender. Furthermore, the latest nominal roll dated 29.01.2025 authored by Superintendent, Central Jail no. 2, Tihar, New Delhi is on record and the same also reflects that the appellant/applicant had surrendered on 13.01.2025. Admittedly, the other two co-convicts have already been granted bail.

15. In view of the aforesaid facts and circumstances, the present application is partly allowed and the sentence of the appellant/applicant is suspended till the disposal of the present appeal, subject to the following conditions :



- 15.1. The appellant/applicant shall deposit Rs. 75,000/-, being the aggregate amount of fine imposed by the learned Trial Court, with the Registrar General of this court, within a period of 06 weeks;
- 15.2. The appellant/applicant shall furnish a personal bond in the sum of Rs. 5,00,000/- (Rs. Five Lacs Only) with 01 surety in the like amount from a family member, to the satisfaction of the learned Trial Court;
- 15.3. The appellant/applicant shall furnish to the Investigating Officer, CBI 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;
- 15.4. The appellant/applicant shall ordinarily reside at his address as per prison records; and shall promptly inform the Investigating Officer in writing if there is any change in that address;
- 15.5. If the appellant/applicant 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 this court;
- 15.6. The appellant/applicant shall not indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending appeal.
16. The present application stands disposed of.
17. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made are only for the purpose of the present application.
18. A copy of this order be sent to the concerned Jail Superintendent for information and compliance.
19. Order be uploaded on the website of this Court, *forthwith*.



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20. List in due course.

AMIT SHARMA, J

JANUARY 30, 2025/nk

Click here to check corrigendum, if any