

**Court No. - 53**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 8620 of 2022

**Applicant :-** Rahul Kothari

**Opposite Party :-** Serious Fraud Investigation Office Through Assistant Director

**Counsel for Applicant :-** Sankalp Narain

**Counsel for Opposite Party :-** A.S.G.I.

**Hon'ble Om Prakash-VII,J.**

Heard Sri Vikram Chaudhary, learned Sr. Advocate assisted by S/Sri Imran Ullah, Pranjal Krishna, Sankalp Narain for the applicant and Sri Gyan Prakash, learned Sr. Advocate assisted by Sri Sanjay Kumar Yadav, learned Advocate appearing for the S.F.I.O.

This is Second Bail Application.

First Bail Application was decided on 11.05.2022.

As requested by learned Sr. Advocate appearing for the S.F.I.O. four weeks' time is allowed for filing counter affidavit.

One week thereafter is allowed for filing rejoinder affidavit.

List this matter on 11.04.2022.

**ORDER ON INTERIM BAIL APPLICATION**

This Application for Interim Bail has been filed by the applicant Rahul Kothari with the prayer to enlarge him on interim bail in S.T. No. 577 of 2020 (SFIO Vs. Rotomac Global Pvt. Ltd. and others) arising out of MCA Order No. 03/117/2018-CL II (NR) dated 21.02.2018 and MCA order no. 07/117/2018-CL II (NR) dated 22.08.2019, under Sections 36 (c ) r/w 447, 185, 186, 447, 448 r/w 447 of the Companies Act, 2013 and Section 211 r/w 628 of the Companies Act, 1956 registered with the Serious Fraud Investigation Office, New Delhi (S.F.I.O.,New Delhi) and pending in the court of Learned Additional District & Sessions Judge-9, Kanpur.

Submission of the learned Sr. Advocate appearing for the applicant is that Special Leave to Appeal moved before the Hon'ble Supreme Court was decided on 07.02.2022 with the liberty to the applicant to approach before the

competent forum. Referring to Annexure No. 1 it was also argued that on the aforesaid date interim bail granted earlier to the applicant on 20.01.2022 was extended for further two weeks. Since bail application moved before this Court was not listed, hence fresh application was moved by the applicant before the Hon'ble Supreme Court which was allowed and interim bail granted to the applicant was extended upto 02.03.2022. It was also argued that since bail application of the applicant could not be listed and period of interim bail granted to the applicant was expired, therefore, he surrendered before the court concerned on 03.03.2022 and is in jail. It is also argued that interim bail was granted by the Hon'ble Supreme Court on humanitarian ground as his father has passed away and mother is suffering from serious illness and he is the only son. It is also argued that since time is sought on behalf of the S.F.I.O., applicant was on interim bail granted by the Hon'ble Supreme Court, thus prayer was made to grant interim bail to the applicant till decision of the regular bail application. To substantiate his argument learned counsel for the applicant also referred to the documents annexed with the bail application as well as orders passed by Hon'ble Supreme Court.

Learned counsel appearing for the S.F.I.O. states that since the applicant has surrendered before the Court concerned, he is in custody, therefore, there is no occasion to grant him interim bail. Counter affidavit will be filed within four weeks positively. Thus, prayer was made to reject the prayer for interim bail.

I have considered the rival submissions made by the learned counsel for the parties and have gone through the entire record.

On rejection of the Criminal Misc Bail Application No. 36542 of 2020 by this Court on 11.05.2021, applicant approached before the Hon'ble Supreme Court through Special Leave Petition (Criminal) No. 12089 of 2021. Applicant was allowed on interim bail. Aforesaid Special Leave Petition (Criminal) has been disposed of vide order dated 07.02.2022 extending the period of interim bail. Interim bail granted to the applicant was also extended from time to time and was effective till 02.03.2022. Thus, keeping in view the entire facts and circumstances of the case and the grounds taken in the interim bail application and also the interim bail orders passed by the Hon'ble Supreme Court, the Court is of the opinion that interim bail prayer made by the applicant is liable to be allowed. Thus, interim bail application is hereby allowed and the

applicant be released on **interim bail till the next date fixed in the matter** on furnishing a personal bond and two heavy sureties each in the like amount to the satisfaction of the court concerned subject to the following conditions:

1. The applicant will not tamper with the evidence during the trial.
2. The applicant will not pressurize/ intimidate the prosecution witnesses.
3. The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.
4. The applicant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.
5. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.
6. The applicant shall deposit his passport with the Trial Court within one week from his release from prison and if he has no passport he shall swear to it on affidavit within the same period and shall not leave the country without prior permission of the Court concerned.

**Order Date :-** 9.3.2022

Sachdeva