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

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Judgment reserved on : 23.06.2023
Judgement pronounced on: 28.06.2023+ **BAIL APPLN. 1982/2023 & CRL.M.A. 16205/2023****GAURAV SINGAL**

..... Petitioner

versus

CENTRAL BUREAU OF INVESTIGATION

..... Respondent

Advocates who appeared in this case:

For the Petitioner:

Mr. Mohit Mathur & Mr. Viraj R. Datar,
Senior Advocates with Mr. Prayan
Sharma, Mr. Harshit Vashisht, Mr. Arjun
Pant, Mr. Moksh Arora, Mr. Deepak Goel
& Mr. Anoop George, Advocates.

For the Respondent :

Mr. Anupam S. Sharma, SPP-CBI with
Mr. Prakarsh Airan, Ms. Harpreet Kalsi,
Mr. Ripudaman Sharma and Mr.
Abhishek Batra, Advs. with Mr. Amit
Kumar Dwivedi, DSP.**CORAM:****HON'BLE MS. JUSTICE TARA VITASTA GANJU****[Physical Court Hearing/ Hybrid Hearing (as per request)]****JUDGMENT****TARA VITASTA GANJU, J.:**

1. This is an Application filed on behalf of the Petitioner seeking Regular Bail under the provisions of Section 439 of the Code of Criminal Procedure, 1973 [hereinafter referred to as "CrPC"].



2. FIR RC No.216/2023/A/0005 dated 30.04.2023 was registered at P.S. CBI AC-I, New Delhi against the Petitioner/Applicant for commission of offences punishable under Section 109 Indian Penal Code, 1860 and Section 13(2) read with Section 13(1)(e) of Prevention of Corruption Act, 1988 [hereinafter referred to as "PC Act"] on the basis of information received against Shri Rajinder Kumar Gupta (father of the Petitioner/Applicant), Reema Singhal (wife of Rajinder Kumar Gupta), Petitioner/Applicant and Komal Singhal (wife of Petitioner/Applicant).
3. The allegation against the Petitioner/Applicant is that the Petitioner/Applicant abetted the co-accused Shri Rajinder Kumar Gupta (father of the Petitioner/Applicant) who, while working as the then Chairman and Managing Director [CMD], Water and Power Consultancy Services (India) Limited [hereinafter referred to as "WAPCOS"], during the check period 01.04.2011 to 31.03.2019, had committed criminal misconduct and acquired assets disproportionate to his legal sources of income to the tune of 131.92% and enriched himself illicitly in active connivance with his family members including the Petitioner/Applicant.
4. The Petitioner/Applicant has been constrained to approach this Court as his Application seeking Regular Bail was dismissed by Order dated 29.05.2023 [hereinafter referred to as "the Impugned Order"], by the Learned Special Judge (PC Act) CBI - 11, Rouse Avenue Courts, New Delhi.
5. The brief facts for the adjudication of the present Application are as follows:



- (i) Sh. Rajinder Kumar Gupta (Accused No. 1/father of the Petitioner/Applicant) became the CMD of WAPCOS on 27.04.2010. Accused No. 1 retired on 30.09.2020.
- (ii) The Petitioner/Applicant has been working with Maruti Suzuki for the last 15 years.
- (iii) The Petitioner/Applicant was required to attend an official conference in Doha, Qatar, with a scheduled departure on 02.05.2023 and return on 07.05.2023.
- (iv) On 02.05.2023, searches were conducted by the Respondent at multiple premises belonging to the Petitioner/Applicant including the residential premises of the Petitioner/Applicant at Pitampura, New Delhi. On account of the raids, the Petitioner/Applicant cancelled his official trip, reached his residence in order to provide assistance and cooperation to the ongoing search.
- (v) The Petitioner/Applicant was detained by the Respondent on 02.05.2023 and was remanded to custody for 10 days. Thereafter, on 12.05.2023, the Petitioner/Applicant was sent to Judicial Custody. The total period of incarceration of the Petitioner/Applicant, as on the date of judgment being reserved, is 52 days.
- (vi) The Petitioner/Applicant contends that during the search, all materials such as documents pertaining to Petitioner/Applicant's bank lockers with keys, property papers, and all the digital devices belonging to the Petitioner/Applicant and the Petitioner/Applicants family were seized by the Respondent.



(vii) The Petitioner/Applicant approached this Court by way of the present Application, pursuant to his Application seeking Regular Bail being dismissed by the Trial Court by the Impugned Order.

6. On 02.06.2023, the Status Report was directed to be filed. On seeing the urgency in the matter, this Court had on 21.06.2023, directed the Parties to file Written Submissions. Arguments were heard on 23.06.2023 when the Judgment was reserved by this Court.

7. Mr. Mohit Mathur, Learned Senior Counsel who appears on behalf of the Petitioner/Applicant, has made the following submissions before the Court:

(a) The arrest of Petitioner is illegal and bad in law, inasmuch as, the arrest was in blatant violation of procedure as set forth under Section 41 A of the CrPC. He submits that it is trite law, that the Petitioner should not be arrested without any preliminary enquiry before the registration of FIR.

(b) The Petitioner/Applicant is being detained unlawfully based on transactions that took place from 01.04.2011 to 31.03.2019 while the FIR was filed on 30.04.2023. It is submitted that the allegation of abetment is *qua* the period almost 3 years after the retirement of the Petitioner/Applicants father from WAPCOS.

(c) It is further submitted that the stringent provisions of the PC Act have been wrongly invoked against the Petitioner/Applicant who is neither a public servant nor involved with any public/government body. The Petitioner/Applicant is employed as Deputy General Manager with



Maruti Suzuki Ltd. for the last several years and that his continued incarceration is adversely affecting his professional career.

(d) Since the Petitioner/Applicant has already suffered incarceration for more than 52 days, and any further detention of Petitioner/Applicant shall tantamount to inflicting punishment upon the Petitioner/Applicant without affording him an opportunity to prove his innocence during trial. Learned Senior Counsel relies upon the judgment of the Supreme Court in *Satender Kumar Antil v CBI*¹ to submit that, “*Bail is a rule and jail is an exception*”, Bail should not be withheld as a punishment and courts must not decline bail unless exceptional circumstances exist.

(e) The properties attributed to Petitioner/Applicant are duly accounted for in the books/ITR's inasmuch as, the sources of funds for purchase of all properties either in the name of Petitioner/Applicant or his joint name with his family have been duly disclosed in the books of accounts and has been provided to the Learned Trial Court, but all of these were overlooked while passing the Impugned Order.

(f) It is further submitted that the case of disproportionate assets is entirely documentary in nature. Admittedly, all the documents have already been seized and investigated by the Respondent. The Petitioner/Applicant has been subjected to sustained interrogation and he has always cooperated with the investigation. Further, all electronic devices, laptops, mobile, pen drive etc., have already been seized and data has been retrieved and scrutinized by the Respondent. In fact, no specific

¹ (2021) 10 SCC 773



role or involvement has been shown against Petitioner/Applicant in allegedly abetting his father and that the allegation is based on presumptions & conjectures. There is, therefore, no justification for any further custody of the Petitioner.

(g) The Petitioner/Applicant satisfies the ‘**TRIPLE TEST**’ of having unblemished life without any criminal antecedents, being deeply integrated into society, and being willing to comply with any conditions set for their release on bail and to face trial. The Petitioner/Applicants release shall not in any manner prejudice either the investigation or trial.

7.1 Learned Senior Counsel for the Petitioner/Applicant seeks to rely on compilation of Judgments as filed along with the Written Submissions including the Judgment of a Coordinate Bench of this Court in *Sukh Ram v State*².

8. Mr. Anupam S. Sharrma, Learned SPP who appears on behalf of the Respondent, while opposing the present Application made the following submissions before the Court:

(a) The Petitioner/Applicant is implicated in an economic offense. Wherein substantial sums of monies including Rs.38,38,79,700/- (Rupees Thirty-Eight Crore Thirty-Eight Lakh Seventy-Nine Thousand Seven Hundred), in cash, been confiscated from the Petitioner/Applicants premises. Several crores in cash and foreign currency have been confiscated from the premises of the family members of the Petitioner/Applicant. Various documents pertaining to movable or

² 1996 SCC OnLine Del 733



immovable properties and assets all over India have also been obtained. The Petitioner/Applicant, has been unable to provide a satisfactory explanation for the significant amount of cash, jewellery, and property documents that were discovered during the search and seizure.

(b) It is further submitted that the Petitioner/Applicant has not disclosed any legitimate source from where he had purchased high-end properties located in posh localities and other movable assets. Reliance is placed upon the list depicting the properties and the recoveries effected, as attached with the Written Submissions of the Respondent.

(c) He further submits that the Petitioner/Applicant has tampered with the prosecution evidence and has been non-cooperative. In this regard, he states that the Petitioner/Applicant was late to the investigation of the Respondent, even when he was informed well in advance, and did not join the proceedings for more than 8 hours till 4:00 PM on 02.05.2023. He further submits that the Petitioner/Applicant deliberately concealed his mobile phone which was subsequently recovered on 05.05.2023. The Petitioner/Applicant in the meantime, had already deleted some data from his mobile phone and had removed and threw away his SIM card.

(d) The Petitioner/Applicant did not disclose the exact number of locations of lockers owned by them in different banks and one of the lockers situated in Indian Bank was operated by Reema Singhal, mother of the Petitioner/Applicant, during the investigation.

(e) The Notice u/s 41A CrPC, is not illegal. As per Section 41 CrPC, an arrest can be without an order of Magistrate against whom credible



information has been received or a reasonable suspicion exists that he has committed a cognizable offence.

(f) It is further submitted that prior approval under Section 17A of the PC Act was not required since the offence of disproportionate assets is neither related to any recommendation made or decision taken by public servant in discharge of official functions or duties.

(g) Lastly it is contended that it is well-established that economic offenses form a distinct category and should be approached differently when considering matters related to Bail. He relies on the case of *Mohit Dhankar v CBI*³ to substantiate his arguments that there is a growing problem of corruption amongst the public officials in government agencies, which needs to be tackled.

9. In Rejoinder, Mr. Mathur, learned Senior Counsel submitted that all documentary evidence as is necessary for the completion of the investigation is already with the Respondent and therefore, the Petitioner/Applicant is not required for any further investigation. He also emphasized that the destruction of the SIM card is irrelevant to the present case since a SIM card does not contain any data, and the Mobile Phone of the Petitioner/Applicant, was admittedly handed over to the Respondent and is in the custody of the Respondent. He further submits that the Petitioner/Applicant has also been cooperating with the investigation and that there has been no tampering with evidence as has been alleged. All

³ *BAIL APPLN. 1888/2022 (order dated 22.08.2022)- Delhi High Court.*



explanations and defences sought by the Respondent will form the subject matter of Trial.

10. Arguments have been heard by this Court on behalf of the parties. At the stage of an Application for grant of Bail, the Court is not required to go into a detailed examination of evidence. It is settled law that the Bail should not normally be withheld, if after taking other factors into consideration, an accused is entitled to Bail.

10.1 The Petitioner/Applicant has his family and roots in society and does not have any prior criminal antecedents. The electronic data as well as all devices including Laptops and mobiles have already been seized by the Respondent. Documents relating to investments/purchase of various movable/immovable assets, keys of 8 bank lockers in the name of the accused persons and various digital devices and storage media, etc. seized during searches on 02.05.2023 and during the investigation are also available with the Respondent as is reflected in the Status Report filed by the Respondent on 13.06.2023.

10.2 So far as the submission of Respondent regarding the operation of lockers is concerned, it is contended that the locker was operated not by the Petitioner/Applicant but by his mother. Further, the allegation *qua* tampering of evidence by the Petitioner/Applicant is with respect to his mobile phone/SIM card. Admittedly, a SIM Card does not contain any data while the mobile phone of the Petitioner/Applicant is also in the custody of the Respondent.



11. The Petitioner/Applicant has thus made out a case of grant of Regular Bail.

12. For the aforesaid reasons, the Regular Bail Application is allowed and the Petitioner/Applicant is granted Bail subject to the following terms and conditions:

(a) The Petitioner/Applicant shall furnish a personal bond with a surety in the sum of Rs.1,00,000/- to the satisfaction of the Trial Court;

(b) The Petitioner/Applicant shall not leave the country during the bail period and surrender his Passport at the time of release before the Trial Court;

(c) The Petitioner/Applicant shall join the investigation as and when called by the Investigating Officer [hereinafter referred to as "the IO"] concerned;

(d) The Petitioner/Applicant shall appear before the Court as and when the matter is taken up for hearing;

(e) The Petitioner/Applicant shall provide his mobile number to the IO concerned at the time of release, which shall be kept in working condition at all times. The Petitioner/Applicant shall not switch off, or change the same without prior intimation to the IO concerned, during the period of Bail;

(f) In case the Petitioner/Applicant changes his address, he will inform the IO concerned and this Court;

(g) The Petitioner/Applicant shall not indulge in any criminal activity during the Bail period;



(h) The Petitioner/Applicant shall not communicate with or intimidate or influence any of the prosecution witnesses or tamper with the evidence of the case.

13. It is clarified, that the observations hereinabove are only for the purposes of deciding the present Bail Application and shall not affect the merits of the case.

14. Accordingly, the Present Petition and pending Application is disposed of.

15. Parties will act based on the digitally signed copy of the Judgement.

JUNE 28, 2023/ha/r

**(TARA VITASTA GANJU)
(VACATION JUDGE)**