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CrI.M.P.No.12883 of 2023

in

CrI.O.P.No.19147 of 2023

DR.G.JAYACHANDRAN, J.,

Ahmed A.R.Buhari, a NRI is the accused in Spl.C.C.No.1 of 2022 pending on the file of the XIII Additional Special Judge for CBI Cases and Designated Court for PMLA Offence, Chennai. He was arrested on 03.03.2022 and remanded to judicial custody on 04.03.2022 for offences under PMLA Act 2002.

2. According to the prosecution, by supplying sub-standard coal to Public Sector Undertaking, he cheated to a tune of Rs.5,64.48 Crores. The proceeds of crime been diverted to various entities across the border.

3. The accused Buhari, approached Court for bail and the same was declined by the trial Court, High Court and Supreme Court. He started the second round seeking bail by filing a petition in CrI.M.P.No.1320 of 2023 under Section 439 of Cr.P.C. This bail petition was dismissed by the trial Court on 17.03.2023. Again, he filed another petition under Section 167(ii) Cr.P.C., and that petition in CrI.M.P.No.2784 of 2023 was also dismissed on



31.03.2023. Thereafter, he approached the High Court by filing

WEB CrI.O.P.No.10035 of 2023 under Section 439 of Cr.P.C., seeking bail, withdrew it subsequently on 18.07.2023. He filed his third bail petition before the trial court in CrI.M.P.No.6628 of 2023.

4. The learned Special Public Prosecutor Mr.N.Ramesh representing Enforcement Directorate, today morning made a mention before this Court for Lunch Motion stating that, the bail petition filed by the accused was heard by the Presiding Officer on various dates and when the matter was heard on 10.08.2023, it was adjourned to 16.08.2023 “ for clarification”. However, when the reopen and clarification petition filed by the prosecution, it was returned by the Presiding Officer at 5.45 p.m. Thereafter, the Judge pronounced order granting bail. When he attempted to get copy of the bail order, he was informed that the bail order copy is not made ready. Apprehending that the accused may furnish sureties and flee away from the clutches of law, he sought for immediate intervention of this Court.

5. Considering the grave allegation made across the Bar by member of the Bar representing Enforcement Directorate, this Court immediately requested the Registrar (Vigilance) of this Court to collect the case papers from the trial



court. Accordingly, the Registrar (Vigilance) has collected the case papers and placed the same before this Court.

6. The bail order of the trial Court signed by the Presiding Officer on 16.08.2023 reads as below:-

“ Order Pronounced:

In the result, considering the facts and circumstances of this case, contention of the petitioner and rival contention of the respondent, this Court inclines to allow this application by imposing, stringent conditions to ensure the petitioner's/Accused appearance for the future hearing of the case:-

i. The petitioner/Accused (A1) required to surrender/deposit his passport before this court custody until further orders.

ii. Petitioner/Accused(A1) enlarged on bail, on his execution of bond for Rs.1lakh and two such sureties for the like sum each and the sureties shall be his blood relatives and sureties required to produce sufficient solvency certificates.



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iii. *The petitioner/Accused(A1) on his enlargement on bail, shall appear before this court on all working days and to sign before this court daily at 10.00 AM until further orders without fail.*

iv. *The petitioner shall not leave the Chennai City limit until further orders.*

v. *The petitioner required to make his appearance regularly for future hearings of this case and required to extend his fullest cooperation for the early disposal of this case.*

vi. *The petitioner shall be made available for interrogation by the respondent as and when required without fail. The petitioner required not to indulge in any activities of tampering of witnesses, records and evidences.*

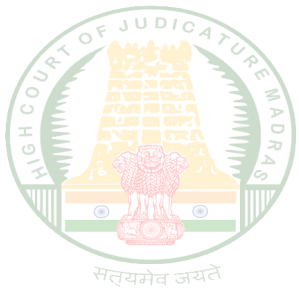
7. On the face of the order which is impugned in this application to set aside the bail granted to the accused, it is obviously seen that there is no discussion in respect of pleadings and the embargo under Section 45 of the PMLA Act, the Act under which the accused now been prosecuted.



WEB COPY 8. Furthermore, when the prosecution has filed petition to reopen the case for clarification, ignoring the said petition, the trial Court has hurriedly passed the non-speaking order granting bail. The copy of the order was not made available to the prosecution for reasons best known and the Counsel has made an endorsement in the application for dispensing with the production of the original order copy, with specific statement that, attempt made on to peruse the bail order did not fructify. The Staff in the Special Court has informed him that the order is under preparation.

9. As stated earlier, case records seized by the Registrar (Vigilance) also does not contain a detailed order except the docket order which is signed by the Presiding Officer which is extracted above for easy reference. In that order, there is no indication that there is a detailed order dictated/pronounced and signed in the Open Court. This clearly indicates that when the docket order signed by the Presiding Officer, there was no detailed order.

10. For the said reason, the order passed in CrI.M.P.No.6628 of 2023 in Spl.C.C.No.1 of 2022 dated 16.08.2023 has to be tested. Therefore, it is hereby stayed.



WEB COPY 11. The Registrar (Vigilance) is directed to return back the records.

Photo copy of the signed order is retained in the bundle for future reference.

Copy of this order shall be sent to the trial Court forthwith through Special Messenger.

12. Issue notice to the respondent returnable by 23.08.2023. Private notice is also permitted.

17.08.2023

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