

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Criminal Misc. 2nd Bail Application No. 1875/2017

Himanshu Verma S/o Shri Kanwar Ajay Verma, Aged About 31 Years, R/o House No.1016, Street No.10, Gurbax Colony, Patiala 147003, Punjab.

----Petitioner

Versus

C.B.I. Through Special PP.

----Respondent



For Petitioner : Mr. Paker Farooq

Mr. Ramesh K. Narula

Mr. Udayan Mukherji

For Respondent : Mr. Ashwani Sharma, SPP for C.B.I

HON'BLE MRS. JUSTICE SABINA

Judgment

8/2/2017

Petitioner has filed this bail application under Section 438 Code of Criminal Procedure, 1973 seeking anticipatory bail in F.I.R. No. CBI: RC.BD/2016/E/0002 for offences under Sections 420, 468, 471, 472, 474, 120-B Indian Penal Code, 1860 and Section 13(2) & 13(1) of the Prevention of Corruption Act, 1988.

Learned counsel for the petitioner has submitted that the petitioner has been falsely involved in this case. Petitioner owned company i.e., Navrattan Free Power Corporation Limited Patiala. The same was later renamed as Navrattan Green Power Company. Petitioner was running the business of manufacturing and marketing cement. Petitioner had executed a partnership deed with Daniel. The document was prepared by Deepak Parihar. Petitioner was introduced to Bharat Bomb by Deepak Parihar. They entered a joint venture to raise cement manufacturing plant. Bharat Bomb and chartered accountant Deepak Parihar had dishonest intentions

and assured the petitioner that they would provide huge investment to the tune of Rupees eighteen hundred crores to the petitioner. Petitioner had got F.I.R. registered against Bharat Bomb and others on the ground that loss had been caused to him to the tune of more than Rupees seventeen hundred crores by Bharat Bomb etc. So far as the present case is concerned, petitioner had not signed the documents vide which property was purchased by Bharat Bomb in World Trade Park, Jaipur and at Udaipur. The sale deeds in this regard in favour of the petitioner were forged. Petitioner had joined investigation and was not required for custodial interrogation.



Learned counsel has placed reliance on the judgment of the Apex Court in the case of **Ravindra Saxena Vs. State of Rajasthan in Criminal Appeal No. 2406 of 2009 (Arising out of SLP (Crl.) No. 2663 of 2009) decided on 15.12.2009.** wherein it was held as under:-

“We may notice here that the provision with regard to the grant of anticipatory bail was introduced on the recommendations of the Law Commission of India in his 41st Report dated 24.09.1969. The recommendations were considered by this Court in a Constitution Bench decision in the case of **Gurbaksh Singh Sibbia and others vs. State of Punjab, MANU/SC/0215/1980 : (1980) 2 SCC 565.**

Upon consideration of the entire issue this Court laid down certain salutary principles to be followed in exercise of the power under Section 438 Cr.P.C. by the Sessions Court and the High Court. It is clearly held that the anticipatory bail can be granted at any time so long as the

applicant has not been arrested. When the application is made to the High Court or Court of Sessions it must apply its own mind on the question and decide when the case is made out for granting such relief. In our opinion, the High Court ought not to have left the matter to the Magistrate only on the ground that the challan has now been presented. There is also no reason to deny anticipatory bail merely because the allegation in this case pertains to cheating or forgery of a valuable security. The merits of these issues shall have to be assessed at the time of the trial of the accused persons and denial of anticipatory bail only on the ground that the challan has been presented would not satisfy the requirements of Sections 437 and 438 Cr.P.C.



In our opinion, the High Court committed a serious error of law in not applying its mind to the facts and circumstances of this case. The High Court is required to exercise its discretion upon examination of the facts and circumstances and to grant anticipatory bail "if it thinks fit". The aforesaid expression has been explained by this Court in Gurbaksh Singh's case (supra) as follows:

The expression "if it thinks fit", which occurs in Section 438(1) in relation to the power of the High Court or the Court of Session, is

conspicuously absent in Section 437(1). We see no valid reason for rewriting Section 438 with a view, not to expanding the scope and ambit of the discretion conferred on the High Court and the Court of Session but, for the purpose of limiting it. Accordingly, we are unable to endorse the view of the High Court that anticipatory bail cannot be granted in respect of offences like criminal breach of trust for the mere reason that the punishment provided therefor is imprisonment for life. Circumstances may broadly justify the grant of bail in such cases too, though of course, the court is free to refuse anticipatory bail in any case if there is material before it justifying such refusal."

Learned counsel for the Central Bureau of Investigation has opposed the petition and has submitted that in the present case. Fraud had been committed to the tune of Rupees one thousand sixty three crores and twenty four lacs. Fraud was detected by the bank. The bank officials had discounted cheques to the tune of approximately Rupees six hundred crores and outstation cheques to the tune of approximately Rupees three hundred crores.



Life Insurance Policies were not got duly verified by the bank officials and on the basis of the same loans were sanctioned. During investigation, the role of the petitioner came to light as defrauded amount had also been transferred in the accounts of the petitioner. Petitioner had admitted that he had received an amount of Rupees fifty three crores seventy seven lacs through co-accused Bharat Bomb. Amount of Rupees twenty six crores forty two lacs eleven thousand eight hundred fifty seven and sixty paise was credited in the account of M/s Blue Creat Industries Private Limited from the account of M/s Radhika Enterprises. Petitioner is the Director of M/s Blue Creat Industries. An amount of Rupees twelve crores fifty lacs was credited in the account of the petitioner maintained with Axis Bank, Chandigarh, on 22.03.2014 from M/s Omania Entertainment and Hospitality Private Limited, a firm owned by co-accused Vipul Kaushik. An amount of Rupees three crores was credited in the account of the petitioner from account of M/s B.K. builders, a firm of Burhanuddin Khilonawala. The said firm was in-fact not running any business. An amount of Rupees four crores ninty lacs was credited in the account of the petitioner by M/s Solanki constructions and an amount of Rupees one crores seventy lacs was credited in the account of petitioner by M/s Matashwari Suppliers. Petitioner had purchased a house in Chandigarh for about Rupees twelve crores and had purchased a plot at Rajpura (Punjab) for about Rupees six crores. Petitioner had also purchased two shops at World Trade Park, Jaipur. Petitioner is required for custodial interrogation. Regular bail petition filed by co-accused Shanker Lal Khandelwal and Santosh Kumar Gupta have been dismissed by this court. Anticipatory bail petition filed by co-accused Usha Gupta has also been dismissed by this court.



Thus, in the present case, prosecution story in brief is that so far as the petitioner is concerned, he had received money from co-accused Bharat Bomb under a joint venture agreement for setting up a cement plant. However, the money had not been utilized for setting up cement plant but had been utilized for purchasing real estate.

The matter was also investigated by Enforcement Directorate and it transpired that it was a case of money laundering. Bharat Bomb had been investing money in the name of fictitious persons/companies. Bharat Bomb had also purchased property in the name of the petitioner. Petitioner had not joined the investigation and had only replied on telephone that he had no concern with the shops purchased in his name at Jaipur.

There is no quarrel with the proposition of law settled vide judgment in Ravindra Saxena case (supra) but the same fails to advance the case of the petitioner. Keeping in view the seriousness of allegations levelled against the petitioner and facts and circumstances of the case, no ground for grant of anticipatory bail to the petitioner is made out.

Dismissed.

(SABINA)J.

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