

IN THE COURT OF SH. ASHOK KUMAR, ACMM-2 CUM ACJ,
ROUSE AVENUE COURT COMPLEX, NEW DELHI

CBI VS Nirmal Singh Bhangoo&Ors.
CC No. 43/2019
FIR No. RC/BD1/0004/E/2014
U/s 420 r/w 120B IPC

20.07.2020

Present: None.

I have already heard arguments on the bail application of the applicant/accused Subrata B. Bhattacharya on 16.07.2020 through video conferencing on CISCO-WEBEX platform in view of the directions issued by Hon'ble High Court and Ld. District Judge considering the prevailing pandemic of COVID-19. The video conferencing link for the same has been sent by the Reader of this court to all concerned. Today the aforesaid application is listed for orders/clarification.

I have perused the bail application on behalf of the accused/applicant Subrata B. Bhattacharya, the written submissions in support of bail, the latest medical report of the accused sent on my email and the reply of the IO to the same. I have also duly considered the rival submissions.

Arguments of the defence counsel:

It is submitted by the counsel that the accused is lodged in JC since 4 years and 7 months and is aged 60 years and is a known patient of severe diabetes and hypertension and in the times of the pandemic of COVID-19 is a high risk candidate. Hence, he should be granted bail for his safety and also so that he may prepare his defence

well. However, I think that this medical ground is only taken out of desperation because the medical report of the competent medical officer of the Central Jail No. 7 has clearly stated in the latest report dated 13.07.2020 after measuring all the necessary health parameters that the said inmate is being given a good medical treatment and at present his condition is stable, his blood pressure and blood sugar are also under control. Hence, this court discards the medical condition of the accused as a ground of bail.

On merits, it is submitted that the accused was arrested on - 08.01.2016, chargesheet has already been filed complete in all respect to proceed with the trial on 07.04.2016, cognizance of the offence has already been taken by Ld. CMM on 24.10.2019 and the accused has suffered more than 4 years and 7 months in JC. However, still charges are yet to be framed and there is a list of 180 witnesses. Hence, it cannot be denied that the trial will take a long time. It is further submitted that the accused herein is neither promoter nor share holder nor a beneficiary nor a money launderer (it was orally submitted that there is no PMLA case against him like other accused and on enquiry by this court, the prosecution did not make a statement to the contrary). The accused was merely a non Executive Director till 2009 and an Executive Director from 2013 when the business was declared lawful by the Hon'ble Delhi High Court and Rajasthan High Court and even the Supreme Court vide order dated 26.02.2013 allowed the company to carry out the operations and fund mobilization activities under the scrutiny of SEBI. It is further submitted that pre conviction incarceration should not be resorted to as a punitive measure by denial of bail if there is no reasonable prospect of tampering of the evidence or flight risk. It is submitted that accused should not be denied bail just because of the overwhelming high amounts involved in the case and large number of impacted investors when there is no chance of fleeing the course of justice. In respect of

this proposition of law, Ld. Counsel has taken the support of celebrated judgement of **Sanjay Chandra V. Central Bureau of Investigation (2012) 1 SCC 40**. In regard to assuring the court that there is no flight risk the Ld. Counsel has submitted that during so many interim bails granted to the applicant on medical grounds of his own or regarding his wife, no instance has come to light regarding the misuse of bail and even the passport is with the CBI. These are the encapsulated submissions of the Ld. Defence Counsel.

Arguments on behalf of the prosecution:

Ld. PP has drawn my attention towards the orders dismissing the bail applications of the accused right up to the Supreme Court. The latest order is dated 17.01.2020 in Civil appeal No. 13301/2015 wherein it has been specifically noted that:-

*“We have considered the submissions and we have also perused the statements contained in paragraphs 9, 10 and 11 of the affidavit filed on behalf of the CBI by Biswajit Das, Superintendent of Police. We have also duly been apprised of a sequence of bail applications which have been dismissed, as stated in the tabular chart contained in the affidavit. Reliance has also been placed on the observations made in the order of the **Delhi High Court dated 6 March 2017 in Bail Application No 1707 of 2016** in which the role of the applicant has been elucidated from the status report filed by the CBI.*

Having regard to the facts and circumstances, we are of the view that this is a matter involving an alleged criminal conspiracy in furtherance of which the Directors of M/s PGF Limited and M/s PACL Limited are alleged to have illegally obtained a benefit of Rs 45,184 crores at 5 the expense of 5.46 crore investors spread all over the country from sham land transactions. The role attributed to the applicant has been elucidated in the affidavit filed by CBI. No case for grant of bail has been made out.

The application is accordingly dismissed”.

In the order dated 06.03.2017 in bail application 1707 of 2016 as well as order dated 19.03.2018 in bail application no. 254 of 2018 the Hon’ble High court has elucidated upon the role of the accused impacting crores of gullible investors and the gargantuan amount of

more than Rs. 45 thousand crores collected on the pretext of allotting agricultural land to the investors or in alternative of repaying them the enhanced maturity value or the realizable estimated value of the land and it has been observed that the FIR was registered by the CBI after a preliminary inquiry was conducted pursuant to directions of Hon'ble Supreme Court in Civil Appeal No. 6572/2004 in the matter of M/s PGF Ltd. Vs. Union of India and others. Investigation revealed that Managing Director and Directors were running "Collective Investment Schemes" and under the guise of the scheme for sale and development of agricultural land, they collected several thousand crores of money from gullible investors all over the country inducing them that their investment would earn them huge interest and land as well.

However, neither land was allotted nor money was given to the investors. The investigation also revealed that M/s PGF Ltd. was fraudulently inducing its customers to make investment by showing forged and fabricated letters of allotment of land and customers were also promised a fixed return on their investment based on the estimated realizable value at the end of the term as mentioned in registration letters issued to the customers. Documentations were done to show reverse sale of land by the customers of M/s PGF Ltd. Money was rotated through in various sisters concerns of the accused company M/s PACL and M/s PGF without any actual transfer of land and without any stamp duty being paid. The investigation revealed that the land which was sought to be allotted was either non-existent or government lands and the accused being Executive Director has a direct role in the forgery of fake title deeds, GPA(s), fake invoices created for rotation of money between various sisters concerns and of misrepresentation through such forged documents.

The role of the accused is delineated in the said orders in the following words:-

“The petitioner Subrata Bhattacharya, Executive Director of M/s PACL Ltd. is a co-conspirator in the offences committed for the reason that while he was a Director of the company:

i. lands were allotted to customers which were non-existent government lands based on forged and fabricated documents;

ii. sham transactions were entered into;

iii. being a whole time Director he has chaired the board meetings and signed minutes of board meetings for running illegal schemes and cheating the customers. Thus according to CBI he has a significant role in the decision making policy decisions and also day-to-day running of the firms of the company;

iv. as Director, he is responsible for issuing circular, inducing its commission agents by giving them incentives, prizes awarding foreign trips, for collecting funds from gullible investors;

v. role of the petitioner has also surfaced in grant of approval of diversion of customers' money to Australia through associated company M/s PIPL.”

Considering the arguments of prosecution, in my view the accused/applicant is not entitled to the relief of bail at this stage.

Copy of this order be sent to the counsel for applicant/accused and Ld. PP for CBI as per the guideline framed by Ld. District Judge through electronic mode/email/WhatsApp if so requested and be also uploaded on the official Website of Delhi District Court. Ahlmad/Asstt. Ahlmad is also directed to take a print out of the ordersheet and tag the same in the judicial file.



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16.07.2020

Present: Ms. Mona Jonwal, Ld. PP for CBI.
Sh. Jai A. Dehadrai alongwith Sh. SidharthArora Ld. Counsels for
applicant/accused Subrata B. Bhattacharya.
Accused Subrata B. Bhattacharya. has been produced through
Video Conferencing by Sh. Hargovind Meena, Asstt. Supdt. Jail
No. 7.
Second IO Sh. Devender Kumar alongwith present IO Sh.
AnsumanSaha.

Today the matter is listed for the remand proceeding as well as
hearing on the bail application of the applicant/accused Subrata B. Bhattacharya
which is heard through video conferencing on CISCO-WEBEX platform in
view of the directions issued by Hon'ble High Court and Ld. District Judge
considering the prevailing pandemic of COVID-19. The video conferencing link
has been sent by the Reader of this court to all concerned.

**At the outset, it is pertinent to note that I have already
observed in order dated 01.06.2020 about the transfer of the case by Ld.
CMM Sh. Harjyot Singh Bhalla vide his order dated 27.05.2020 to this
court. It was further observed that the file will be transferred by the
court of Ld. CMM only on normal functioning of the court as per order
dated 27.05.2020.**

**During the course of proceeding, the parties as well as the
Reader has apprised that today judicial custody remand of accused Subrata
B. Bhattacharya is listed for extension and on 24.07.2020 the remand
through VC is listed in respect of accused Gurmeet Singh in the same case.**

In view of above, accused Subrata B. Bhattacharya be produced on 30.07.2020 through VC. The next date of accused Gurmeet Singh is also fixed in advance as 30.07.2020 because for the convenience of the proceeding and to avoid confusion, it is better that both the accused in the present case be produced in one common date.

I have also separately heard the arguments addressed by above mentioned counsels as well as prosecution in respect of pending bail application of accused Subratto B. Bhatacharya. **Same is now listed for order/clarification on 20.07.2020.**

The case was also listed from 10.07.2020 to 16.07.2020 with direction to Jail Supdt. to file the latest medical report of the accused/applicant Subratto B. Bhatacharya and the same has been filed on the official email ID provided to him.

It is pertinent to note that bail application was adjourned for hearing from 10.07.2020 to 16.07.2020 keeping in view the request of the Ld. Defence Counsel so that the court may seek hard copies of the bail application, brief written submissions on the bail as well as the reply of the IO for simultaneous reference thereto while hearing the arguments.

Copy of the order be sent to the concerned Jail Supdt.for compliance so that both the above named accused persons could be produced for remand on same day. The Jail Supdt.shall take print out of the order and attach to the custody warrants of the accused produced via VC. Separate copy of the order be provided to respective parties if so requested and be also uploaded on the official Website of Delhi District Court.

In view of Office Order No. Power/Gaz./RADC/2020/E-6836-6919 dated 14.07.2020, the case be adjourned en bloc as it was only listed for miscellaneous purpose.



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PS CBI

20.07.2020

Present: Ld. PP Ms. Mona Jonwal for CBI.
Ld. Sr. Counsel Sh. Vivek Sood accompanied by Sh. Jai A
Dehadrai separately on VC for applicant/accused Gurmeet
Singh.
Sh. Devender Kumar, IO of the case.

In view of the prevailing pandemic of COVID-19 as per
directions of Hon'ble High Court and Ld. District Judge, the
submissions on application for bail are heard through Video Conferencing
using CISCO-WEBEX App from my own residence. The link has been
sent by the Reader Sh. Nitin Jain as per the administrative directions of
Ld. District Judge.

Ld. Sr. Counsel Sh. Vivek Sood has requested an
adjournment stating that the order in respect of co accused Subrata B.
Bhattacharya has been passed by this court today only and he needs some
time to peruse that order.

Hence, with consent of all parties next date of **04.08.2020** is
listed for hearing on the bail application at 12.30 pm by way of VC unless
otherwise the court reopen in which case the hearing will be conducted in
the court. **Copy of this order be provided to the counsel for
applicant/accused and Ld. PP for CBI as per the guideline framed by
Ld. District Judge through electronic mode/email/WhatsApp if so
requested and be also uploaded on the official Website of Delhi
District Court. Ahlmad/Asstt. Ahlmad is also directed to take a print
out of the ordersheet and tag the same in the judicial file.**



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