

CRC No. 15/19 (Old CRC No. 19/18)

ECIR/NGSZO/03/2015

**Directorate of Enforcement Vs. M/s Sunil Hi-tech Engineers Limited & Ors
U/s. Section 45 of Prevention of Money Laundering Act (PMLA), 2002 for
offence u/s 3,4 of Prevention of Money Laundering Act, 2002**

07.09.2020

Matter taken up today in compliance of Office Order No. E-10559-10644/Power Gaz/RADC/2020 dated 28.08.2020 and also in continuation to orders No.819-903/DJ/RADC/2020 dated 16.05.2020, No. E1792-1876/DJ/RADC/2020 dated 22.05.2020, No. E-2574-2639/DJ/RADC/2020 dated 29.05.2020, No. E-3943-4029/DJ/RADC/2020 dated 13.06.2020, No. E-4121-4205/DJ/RADC/2020 dated 15.06.2020 and No. Power/Gaz./RADC/2020/E-5577-5661 Dated 29.06.2020, Power/Gaz./RADC/2020/E-6836-6919 Dated 14.07.2020, Power/Gaz./RADC/2020/E-7784-7871 dated 30.07.2020 and Power/Gaz./RADC/2020/E-8959-9029 dated 16.08.2020 of Ld. District & Sessions Judge-Cum-Spl. Judge (PC ACT) (CBI) Rouse Avenue District Court, New Delhi.

The present matter is being taken up today through video conferencing as regular functioning of the Courts at District Courts has been suspended since 23.03.2020 vide office orders of Hon'ble High Court of Delhi bearing Nos. 373/Estt./E1/DHC dated 23.03.2020, No.159/RG/DHC/2020 dated 25.03.2020, No.R-77/RG/DHC/2020 dated 15.04.2020, No. R-159/RG/DHC/2020 dated 02.05.2020, No. R-235/RG/DHC/2020 dated 16.05.2020, R-305 /RG/DHC/2020 dated 21.05.2020, No.1347/DHC/2020 dated 29.05.2020, No.17/DHC/2020 dated 13.06.2020, No.22/DHC/2020 dated 29.06.2020, No. 24/DHC/2020 dated 13.07.2020, No. 26 /DHC/2020 dated 30.07.2020, No. 322/RG/DHC/2020 Dated: 15.08.2020 and 417/RG/DHC/2020 dated 27.08.2020.

The hearing of the present matter is being taken up via Cisco WebEx Platform in the presence (onscreen) of:

**Present: Ld. Special PP Sh. N.K. Matta for Directorate of Enforcement.
Advocate Sh. Akshay Nagrajan on behalf of Ld. Special P.P.
Sh. R.S. Cheema.
IO AD Rajesh Nair.
Ld. Counsels Sh. Avinash Tripathi and Sh. Arpan Behl for A-1
M/s Sunil Hi-tech Engineers Limited.
A-2 Ratnakar Manikrao Gutte is present.
Ld. Counsels Sh. Mudit Jain and Sh. Nagesh Behl for A-2
Ratnakar Manikrao Gutte, A-3 Sunil Ratnakar Gutte and A-5
M/s SHEL Investments Consultancy Pvt Ltd.**

Ld. Counsel Sh. Mohit Kumar Bafna for A-4 M/s Gangakhed Sugar and Energy Ltd.

Sh. Alok Bhatnagar AR of A-6 M/s Jaypee Development Corporation Ltd. (M/s JDCL)

Ld. Counsel Sh. Anurag Tandon for A-6 M/s JDCL.

A-7 Suren Jain is present.

Ld. Counsels Ms. Sonam Gupta and Sh. Devansh Arya for A-7.

A-8 Rahul Kumar is present.

Ld. Counsel Sh. Kshitiz Rao for A-8.

A-9 Sameer Gaur is present.

Ld. Counsel Sh. Vikram Panwar for A-9.

Sh. Vishwanath Iyer AR of A-10 company M/s aXYKno Capital and Services Pvt Ltd. (M/s ACSPL) and A-11 Raman Ramkrishnan are present.

Ld. Counsels Sh. Siddharth Aggarwal and Sh. Vikram Hegde for A-10 company M/s aXYKno Capital and Services Pvt Ltd. and A-11 Raman Ramkrishnan.

In the present matter, following two applications, have been received through e-mail by the Reader of this Court on his official email-ID:

I. BAIL APPLICATION DATED 07.09.2020 ON BEHALF OF APPLICANT/ ACCUSED NO. 2 RATNAKAR MANIKRAO GUTTE UNDER SEC. 437 R/W SEC. 439 R/W SEC. 88 OF CODE OF CRIMINAL PROCEDURE, 1973, FOR GRANT OF REGULAR BAIL IN ECIR/NGSZO/03/2015 REGISTERED BY THE ENFORCEMENT DIRECTORATE, UNDER SECTION 190 OF CODE OF CRIMINAL PROCEDURE READ WITH SECTION 45 OF PREVENTION OF MONEY LAUNDERING ACT, 2002 FOR OFFENCE UNDER SECTION 3 & 4 of PREVENTION OF MONEY LAUNDERING ACT, 2002.

Ld. Counsel Sh. Mudit Jain states that he has already supplied e-copy of the application to ED.

I have heard Ld. Counsel Sh. Mudit Jain for A-2 Ratnakar Manikrao Gutte as well as Ld. Special PP Sh. N.K. Matta for ED on the application for grant of bail.

Ld. Counsel Sh. Mudit Jain submitted that earlier bail application of A-2 Ratnakar Manikrao Gutte was not filed as he was lodged in jail in some other case and now as the accused has been released from jail so the present bail application has been moved.

It has been submitted by Ld. Counsel that applicant/accused has joined investigation as and when he was called by ED and that during the course of investigation, ED has chosen not to arrest him. Ld. Counsel further submitted that there are no allegations levelled against the applicant/accused regarding tampering of any evidence/threatening of witnesses etc. or obstructing of justice in any manner. It has been further submitted that the trial in the present case will certainly take a long time to conclude and the accused/applicant undertakes that he will never even attempt to temper with the prosecution witnesses or prosecution evidence in any manner. It was also submitted that applicant/accused has deep roots in the society and there are no chances of his fleeing from the course of justice.

However, Ld. Special P.P. Sh. N.K. Matta strongly opposed the grant of bail stating that accused/applicant being influential can tamper with the evidence or the prosecution witness(es) and may also delay the trial, if he is released on bail. Application was thus prayed to be dismissed.

I have carefully perused the record.

It will be worthwhile to mention that **Hon'ble Supreme Court in Nikesh Tara Chand Shah Vs. UOI & Anr. (2018) 11 SCC 1** has observed that the twin conditions of Section 45(1) of Prevention of Money Laundering Act, 2002 are unconstitutional as they are violative of Article 14 and Article 21 of the Constitution of India. Further, in the judgment of **Sameer M. Bhujbal Vs. Enforcement Directorate & Anrs., Bail Application No. 286/2018** and **Dr. Vinod Bhandari Vs. Enforcement Directorate, M.Cr. No. 34201/2018 dated 29.08.2018**, **Hon'ble High Courts** observed that the notification dated 29.03.2018 amending the PMLA did not revive or resurrect Section 45(1) (ii) of PMLA and further observed that notification is silent about its retrospective

applicability.

It will be also relevant to point out that in the judgment **Dalip Singh Mann & Another V. Niranjan Singh, Assistant Director, CRM No. 28940/2015 dated 01.10.2015**, Hon'ble Punjab & Haryana High Court has observed that rigours of Section 45(1) (ii) of the Act would be attracted only while considering the bail plea of an accused who has been arrested by the ED under Section 19 of the Act.

Thus keeping in view the over all facts and circumstances of the case, coupled with the submissions made and while relying upon the judgment in the case *Lt. Gen. Tejinder Singh Vs. CBI, 2014 SCC Online Delhi 4560, Court of its own Motion Vs. CBI CrI.M. (M) 3875 of 2003 and Court of its own Motion Vs. CBI CrI. Ref. No. 4/2017*, and the fact that applicant/accused was not arrested during the course of investigation and there are also no allegations that he did not join the investigation so, I am of the considered opinion that the interest of justice will be suitably met if applicant/accused Ratnakar Manikrao Gutte is ordered to be released on bail upon his furnishing a personal bond and a surety bond in the sum of Rs. 1,00,000/- each, to the satisfaction of this Court. However, it is directed that applicant/accused shall not leave India without prior permission of this Court. He shall not tamper with the documents/prosecution evidence or approach the prosecution witnesses in any manner.

It has been however submitted by Ld. Counsel for applicant/accused that the accused is based in Maharashtra and thus he will not be able to appear physically in the present day circumstances. Accordingly, in these circumstances, it is directed that the personal bond of the accused in the sum of Rs. 1,00,000/- be furnished through e-mail after scanning the same and the physical copy thereof be placed in judicial file later on.

The necessary surety bond shall be furnished upon resuming of physical functioning of the Courts. Ld. Counsel for accused undertakes

to comply with the same

The present bail application accordingly stands disposed off.

II. Application dated 20.08.2020 titled “SUBMISSIONS IN RESPECT OF THE DOCUMENTS RETURNED” moved by IO AD Rajesh Nair.

The aforementioned application has been moved by IO AD Rajesh Nair stating that in compliance of order dated 02.07.2020 of this Court copies of the returned documents have been mailed to Ld Counsels for the accused persons who had asked for the said unrelieved documents and the list of the persons to whom the said unrelieved documents were returned, has been mentioned in para No. 4 of the application.

Heard. Let copy of the present application be supplied to Ld. Counsels for the accused persons who have however sought some time to submit reply to the said application, if required.

Heard. Allowed.

Case is now adjourned to 21.10.2020 for compliance of section 207 Cr.PC.

A ditigally signed copy of this order is being sent to Sh. Mukesh JJA, Computer Branch, RADC via WhatsApp for uploading it on the official website of Delhi District Courts.

A copy of order is being retained, to be placed in the judicial file as and when normal functioning of the courts is resumed.

The present order has been dictated on phone to Steno Hukam Chand.

**(Bharat Parashar)
Special Judge, (PC Act)
(CBI), Court No. 608
Rouse Avenue Court
New Delhi
07.09.2020**