

**IN THE COURT OF SH. SANJEEV AGGARWAL
SPECIAL JUDGE : (CBI)-02 : (PC ACT)
ROUSE AVENUE DISTRICT COURT, NEW DELHI**

**CC NO. 46/2019
RC NO. 33(A)/2014/CBI/ACB/ND
PS : CBI/ACB/ND
U/S : 120B r/w 420, 467, 468, 471 IPC &
substantive offences thereof.**

Central Bureau of Investigation (CBI)

Vs.

- 1. Anoop Kumar Gupta (Accused / Convict No. 2)
S/o. Sh. Prem Shanker Gupta
R/o. H.No. 215, Old Bank Street
Behind SBI, Rithala, Delhi**
- 2. Jagmohan Mittal (Accused / Convict No. 3)
S/o. Late Sh. Umrao Singh Mittal
R/o. 4193, Gali Barna
Sadar Bazar, Delhi-6**
- 3. Pradeep Upadhyay (Accused / Convict No. 4)
S/o. Sh. Dev Dutt Upadhyay
R/o. C-10/128, Sec-5
Rohini, Delhi
(Permanent R/o. Vill. Bandrehi,
Teh. - Mankapur, Distt. Gonda (U.P.))**
- 4. Vijay Bhushan Rustogi (Accused / Convict No. 5)
S/o. Late Sh. Kishan Lal
R/o. 10/52, Vishwas Nagar
Shahdara, Delhi**



ORDER ON SENTENCE

1. Vide detailed judgment dated 16.06.2020, convicts Anoop Kumar Gupta (A-2), Jagmohan Mittal (A-3), Pradeep Upadhyay (A-4) and Vijay Bhushan Rustogi (A-5) have all been convicted for committing various offence(s) in furtherance of their common object of said conspiracy on the project of seeking loan from Bank of Baroda, Kirti Nagar Branch, through SMELF Department of above bank by preparation of fake documents and round tripping of money into various accounts of A-2, A-3, A-4 and A-5.

2. Ld. PP for CBI has argued that convicts have been involved in serious crime of preparing false documents, thereby causing loss to the bank of Rs. 315 lakhs, which is a public sector bank. He has also argued that all the convicts are also involved in three others cases of similar nature. Therefore, strict punishment should be awarded to the convicts, so that strong message goes in the society that such kind of crimes do not pay and act as a deterrent.

3. On the other hand, Ld. Counsel for convict, Anoop Kumar Gupta (A-2) has argued that convict is at present 42 years of age, sole bread winner of his family, jobless at present. His family consists of his wife, two minor children and his wife is also suffering from various ailments. He further argued that (A-2) was a small time employee of (A-3) Jagmohan Mittal, who was the main brain behind all these, as also the main beneficiary. It is also stated that this convict has been in JC for almost seven years in various other cases. He has also spent almost four years in JC in this case. Therefore, lenient view be taken against him, as he has already suffered enough.



4. Regarding Jagmohan Mittal (A-3), it is argued that he has only been convicted of conspiracy, not in substantive offence(s), he is not the beneficiary of any money nor any money was transferred into his account, rather he lost his property which was seized and auctioned by the Bank. It is also stated that he is at present 64 years of age, being a senior citizen, his wife is suffering from heart ailments. Both his children are married, he has also spent three and half years in judicial custody in this case, therefore, it is prayed that lenient view be taken against him.

I have also gone through the written submissions filed on behalf of (A-3), wherein number of mitigating circumstances qua him have been mentioned.

I have also gone through the judgment(s) *Padum Kumar Vs. State of Uttar Pradesh Criminal Appeal No. 87 of 2020 (Arising out of SLP(Crl.) No. 6990 of 2018 dated 14.01.2020, Amar Singh VS. CBI (HC) Criminal Appeal NO. 52/2005 dated 22.07.2010, Ramesh Chand Vs. State of the NCT of Delhi (HC) CRL.A. 1259/2013 dated 10.10.2013, Rajinder Bembi Vs. Darshan Singh and another CRR-2302-2015 (O&M) dated 03.08.2018 and Navnitlal Prabhudas Thakkar Vs. State of Maharashtra Criminal Revision Application (Revn) No. 304 of 2006 dated 12.02.2019* relied upon by him in support of his contentions.

5. Regarding Pradeep Upadhyay (A-4), it is argued by Ld. Legal Aid Counsel that this convict is aged 41 years at present, he is resident of Gonda (U.P), he was also a petty employee of A-3, who was the main brain behind all this and also the main beneficiary. His signatures were also obtained on certain blank documents by (A-3) during the course of employment, without his knowledge. It is also argued that his family consists of old aged father, wife and one minor child, aged around 5 years, he is the sole bread winner of his family. He has already spent



4 years in judicial custody in this case. He has further argued that no property was found in his name during the investigations, no money has been recovered from him, he was the victim of circumstances. Therefore, lenient view be taken against him.

6. Regarding Vijay Bhushan Rustogi (A-5), it is argued that he is senior citizen, aged around 60 years, first time offender, he was also a small time employee of (A-3), who was the active mind in all this. He was the first time offender, his family consists of one married daughter and son, his wife is also a senior citizen suffering from thyroid. He was the victim of circumstances, he had very limited role in this. He has already spent 2 years 3 months in judicial custody during the trial. Therefore, it is prayed that lenient view be taken against him.

7. I have gone through the rival contentions, as also the nominal roll(s) of all the convict persons, called from Superintendent Jail concerned.

8. In the present case, (A-2), (A-3), (A-4) and (A-5) had all acted in concert in furtherance of their common design of conspiracy for instance (A-2) forged the sale deed dated 08.12.2006, which was submitted with the Bank of Baroda, Kirti Nagar Branch for seeking loan of Rs. 315 Lakhs by obliterating / deleting numbers on the stamp papers. Before that act(s) of (A-3) in executing the said sale deed dated 08.12.2006 in favour of (A-2), where in actually no consideration passed, further (A-3) at the time when he executed the said sale deed dated 08.12.2006 should not have been in possession of said sale deed with respect to the property 7 Sainik Vihar, Ground Floor and Basement, as he had himself taken loan from SBI, Rajouri Garden on 15.09.2005 and from Yes Bank on 04.09.2008 by keeping the original title deeds, conveyance deed executed in his favour by DDA.



Further the rotation of money into his bank accounts from the bank accounts of (A-2) including the loan account, as also the fact that signatures of (A-4) were found forged on the original sale deed dated 08.12.2006 proved as per the CFSL report and rotation of money into his bank account from the bank account of (A-2), which was from loan account, showed unity of purpose and design.

9. Further (A-5) had purchased the same property i.e. 7 Sainik Vihar from (A-2) in the year 2010, which he had kept as collateral for seeking loan of Rs. 315 Lakhs from Bank of Baroda, Kirti Nagar Branch in November, 2011, whereas (A-2) should not have been in possession of original title deed of said property in the year 2011, when he offered the same as collateral while seeking loan of Rs. 315 Lakhs. There is also rotation of money from the loan account into the bank account of (A-5) as well. Further in the conveyance deed executed by DDA in favour of (A-3) dated 19.03.2004, (A-5) was one of the witnesses to the same, which relates to 7 Sainik Vihar property.

10. The said property 7 Sainik Vihar was a stock sale deed which was used by most of the convict persons at various point of times for seeking loan from different banks by preparing different forged copies thereof, as collateral securities for getting loans from different banks.

11. It has already been proved beyond reasonable doubt that all the convicts were acting as a well oiled machine to achieve common objective of defrauding the Bank of Baroda in this case. Further, in any case, public sector banks have become milch cows at the hand of fraudsters, who after giving exaggerated balance sheets and other forged documents cause serious damage to the banking and the finance sector and in turn to the economy in most insidious manner.



12. Therefore, these kind of economic fraudsters deserve no mercy . They have to be dealt with a firm hand, so that message goes to other waiting in the wings and for those fugitives who have caused serious damage to Indian economy by running away from the country by defrauding Indian Bank(s) of thousands of crore rupees, that such kind of crimes will not pay, so as to have a deterrent effect.

13. As per the nominal rolls of the convicts, called from the concerned Superintendent Jail, the convict Anoop Kumar Gupta (A-2) has spent 3 years, 11 months and 12 days in the present case in judicial custody during the trial. Consequently, in the overall facts and circumstances, interest of justice shall be met if the **convict Anoop Kumar Gupta (A-2)** is sentenced as under :

Sl. No.	Offence(s) punishable u/Sec.	Sentence Rigorous Imprisonment	Fine (Rs.)	Sentence in default of fine (simple imprisonment)
01.	u/S. 120B IPC read with Sec. 420 IPC, 467 IPC, 468 IPC & 471 IPC	4 (Four) years RI	Rs.10,000/-	SI for 1 (One) year
02.	u/S. 420 IPC	4 (Four) years RI	Rs.5,000/-	SI for 6 (Six) months
03.	u/S. 467 IPC	7 (Seven) years RI	Rs.10,000/-	SI for 1 (One) year
04.	u/S. 468 IPC	4 (Four) years RI	Rs.5,000/-	SI for 6 (Six) months.
05.	u/S. 471 read with Sec. 465 IPC	2 (Two) years RI	Rs.2,000/-	SI for 3 (Three) months.

All the sentences of imprisonment shall run concurrently, whereas fine is payable separately under each offence and default punishment to run consecutively. Benefit of the period already undergone during trial u/S. 428 CrPC be extended to the convict. He is sentenced accordingly.

14. As per the nominal rolls of the convict Jagmohan Mittal (A-3), he has spent 2 years, 6 months and 26 days in the present case in judicial custody during the trial. Consequently, in the overall facts and circumstances, interest of justice shall be met if the convict **Jagmohan Mittal (A-3)** is sentenced as under :

Sl. No.	Offence(s) punishable u/Sec.	Sentence Rigorous Imprisonment	Fine (Rs.)	Sentence in default of fine (simple imprisonment)
01.	u/S. 120B IPC read with Sec. 420 IPC, 467 IPC, 468 IPC & 471 IPC	4 (Four) years RI	Rs.10,000/-	SI for 1 (One) year

Default punishment to run consecutively. Benefit of the period already undergone during trial u/S. 428 CrPC, be extended to the convict. He is sentenced accordingly.

15. As per the nominal rolls of the convict Pradeep Upadhyay (A-4), he has spent 2 years, 7 months and 13 days in the present case in judicial custody during the trial. Consequently, in the overall facts and circumstances, interest of justice

shall be met if the convict **Pradeep Upadhyay (A-4)** is sentenced as under:

Sl. No.	Offence(s) punishable u/Sec.	Sentence Rigorous Imprisonment	Fine (Rs.)	Sentence in default of fine (simple imprisonment)
01.	u/S. 120B IPC read with Sec. 420 IPC, 467 IPC, 468 IPC & 471 IPC	4 (Four) years RI	Rs.10,000/-	SI for 1 (One) year
02.	u/S. 467 IPC	7 (Seven) years RI	Rs.10,000/-	SI for 1 (One) year
03.	u/S. 468 IPC	4 (Four) years RI	Rs.5,000/-	SI for 6 (Six) months.

All the sentences of imprisonment shall run concurrently, whereas fine is payable separately under each offence and default punishment to run consecutively. Benefit of the period already undergone during trial u/S. 428 CrPC be extended to the convict. He is sentenced accordingly.

16. As per the nominal rolls of the convict Vijay Bhushan Rustogi (A-5), he has spent 3 years, 9 months and 26 days in the present case in judicial custody during the trial. Considering the fact that the convict has already undergone imprisonment of 3 years, 9 months and 26 days during the trial, consequently, the interest of justice shall be met, if the convict Vijay Bhushan Rustogi (A-5) is sentenced u/S. 120B IPC read with Sec. 420 IPC, 467 IPC, 468 IPC & 471 IPC to undergo Rigorous Imprisonment for the period already undergone by him during the trial of this case by extending him benefit u/S. 428 CrPC. He is further sentenced to

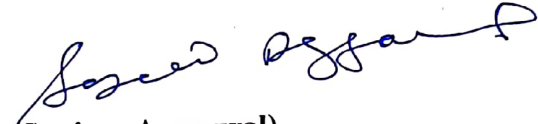


pay a fine of Rs. 10,000/- u/S. 120B IPC read with Sec. 420 IPC, 467 IPC, 468 IPC & 471 IPC, in default to undergo SI of nine months.

17. Copy of the order on sentence be given to all the convicts free of cost.

File be consigned to record room.

**Announced in the Open Court
on this 13th day of July, 2020.**


(Sanjeev Aggarwal)
Special Judge (PC Act) (CBI)-02
Rouse Avenue District Courts
New Delhi

13.07.2020 (At 12:30 PM)

Present : Sh. V. K. Pathak, Ld. PP for CBI along with Inspector Raj Saurabh, HIO and Sh. Avnish Kumar, Pairvi Officer for CBI.
Convict Anoop Kumar Gupta (A-2) is present on bail.
Convict Pradeep Upadhaya (A-4) is present on bail.
Sh. Naveen Gaur, Ld. Counsel for convict (A-3) along with convict Jagmohan Mittal (A-3) on bail.
Sh. Manu Seth, Ld. Counsel for convict (A-5) along with convict Vijay Bhushan Rustogi (A-5) on bail.

1. Nominal rolls of all the convict persons (A-2) to (A-5) have already been received from the Superintendent Jail concerned. Perused.
2. Vide separate detailed order on the point of sentence of even date, announced in the open court today, the convict **Anoop Kumar Gupta (A-2)** has been sentenced as under :

Sl. No.	Offence(s) punishable u/Sec.	Sentence Rigorous Imprisonment	Fine (Rs.)	Sentence in default of fine (simple imprisonment)
01.	u/S. 120B IPC read with Sec. 420 IPC, 467 IPC, 468 IPC & 471 IPC	4 (Four) years RI	Rs.10,000/-	SI for 1 (One) year
02.	u/S. 420 IPC	4 (Four) years RI	Rs.5,000/-	SI for 6 (Six) months
03.	u/S. 467 IPC	7 (Seven) years RI	Rs.10,000/-	SI for 1 (One) year
04.	u/S. 468 IPC	4 (Four) years RI	Rs.5,000/-	SI for 6 (Six) months.
05.	u/S. 471 read with Sec. 465 IPC	2 (Two) years RI	Rs.2,000/-	SI for 3 (Three) months.

All the sentences of imprisonment shall run concurrently, whereas fine is payable separately under each offence and default punishment to run consecutively. Benefit of the period already undergone during trial u/S. 428 CrPC be extended to the convict. He has been sentenced accordingly.

3. The convict **Jagmohan Mittal (A-3)** has been sentenced as under :

Sl. No.	Offence(s) punishable u/Sec.	Sentence Rigorous Imprisonment	Fine (Rs.)	Sentence in default of fine (simple imprisonment)
01.	u/S. 120B IPC read with Sec. 420 IPC, 467 IPC, 468 IPC & 471 IPC	4 (Four) years RI	Rs.10,000/-	SI for 1 (One) year

Default punishment to run consecutively. Benefit of the period already undergone during trial u/S. 428 CrPC, be extended to the convict. He has been sentenced accordingly.

4. The convict **Pradeep Upadhyay (A-4)** has been sentenced as under:

Sl. No.	Offence(s) punishable u/Sec.	Sentence Rigorous Imprisonment	Fine (Rs.)	Sentence in default of fine (simple imprisonment)
01.	u/S. 120B IPC read with Sec. 420 IPC, 467 IPC, 468 IPC & 471 IPC	4 (Four) years RI	Rs.10,000/-	SI for 1 (One) year
02.	u/S. 467 IPC	7 (Seven) years RI	Rs.10,000/-	SI for 1 (One) year
03.	u/S. 468 IPC	4 (Four) years RI	Rs.5,000/-	SI for 6 (Six) months.

All the sentences of imprisonment shall run concurrently, whereas fine is payable separately under each offence and default punishment to run consecutively. Benefit of the period already undergone during trial u/S. 428 CrPC be extended to the convict. He has been sentenced accordingly.



5. The convict **Vijay Bhushan Rustogi (A-5)** has been sentenced u/S. 120B IPC read with Sec. 420 IPC, 467 IPC, 468 IPC & 471 IPC to undergo Rigorous Imprisonment for the period already undergone by him during the trial of this case by extending him benefit u/S. 428 CrPC. He has been further sentenced to pay a fine of Rs. 10,000/- u/S. 120B IPC read with Sec. 420 IPC, 467 IPC, 468 IPC & 471 IPC, in default to undergo SI of nine months.

6. The previous bail bond(s) of convicts Anoop Kumar Gupta (A-2), Jagmohan Mittal (A-3), Pradeep Upadhaya (A-4) and Vijay Bhushan Rustogi (A-5) stand cancelled. Their previous sureties stand discharged. Documents, if any be returned after cancelling the endorsement, if any, if the same are not resubmitted while furnishing bail bonds u/S. 437-A CrPC.

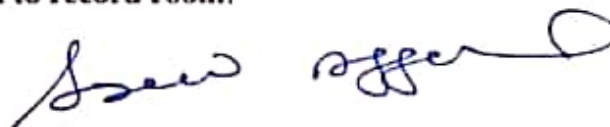
The said convicts are stated to have already furnished their bail bond(s) in compliance of Section 437-A Cr.P.C., which will remain valid for a period of six months from today, as per the provisions of Section 437-A Cr.P.C.

7. The convicts Anoop Kumar Gupta (A-2), Jagmohan Mittal (A-3) and Pradeep Upadhaya (A-4) be taken into judicial custody and be sent to JC for serving the period of sentence, as stated above.

Fine deposited by the convict Vijay Bhushan Rustogi (A-5) only.

8. Copy of the order on sentence has been given to all the convicts free of cost.

File be consigned to record room.



(Sanjeev Aggarwal)
Special Judge (PC Act)(CBI)-02
Rouse Avenue District Court
New Delhi/13.07.2020