

CBI Vs M/s D.G. Footwear Pvt. Ltd. & Ors.
CC No.17/2020

20.08.2020

Present: Sh. B.K. Singh, Ld. Sr. PP for CBI.

None for Accused No. 1 M/s D.G. Footwear Pvt. Ltd.
All the Accused with their learned counsels.
None for Accused No. 14,15,16, 17 and 18.

Vide separate order, all the applications for bail are allowed subject to terms and conditions mentioned in the detailed order.

List on 05.09.2020 at 11am for arguments on Charge/ directions wrt accused companies which are not represented before this court so far.

A copy of this order be sent by whatsapp to Ld. Sr. PP for CBI, accused and their Ld. Counsels.

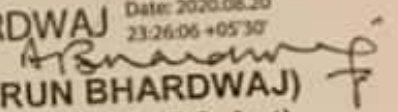
ARUN

BHARDWAJ

(ARUN BHARDWAJ)

Special Judge, CBI-05 (PC Act),
Rouse Avenue District Court,
New Delhi/20.08.2020

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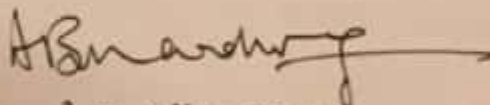
IN THE COURT OF SHRI ARUN BHARDWAJ,
SPECIAL JUDGE [P.C. ACT] [CBI-05],
ROUSE AVENUE DISTRICT COURT, NEW DELHI

CC No.17/2020
CNR No. DLCT110000972020
CBI Vs M/s D.G. Footwear Pvt. Ltd. & Ors.

ORDER ON APPLICATIONS FOR BAIL MOVED BY THE ACCUSED
PERSONS

1. This order shall decide the applications for bail filed on behalf of Accused No. 2 Sh. Sandeep Rathi, Accused No. 3 Sh. Deepak Gupta, Accused No. 4 Sh. Pankaj Kumar Chaudhary, Accused No. 5 Sh. Ajay Pal, Accused No. 6 Sh. Ram Kumar Singh, Accused No. 7 Rakesh Mangla; Accused No. 8 Sh. Satish Kumar Garg, Accused No.9 Sh. Pawan Kumar Jindal, Accused No.10 Sh. Sanjay Kumar, Accused No.11 Sh. B.P. Singh, Accused No.12 Sh. Rupesh Gupta and Accused No. 13 Ms. Sonal Gupta.
2. In the application filed by **Accused No. 2 Sh. Sandeep Rathi**, bail is prayed on the ground that investigation is complete and chargesheet has been filed without arrest of the accused. Reliance is placed on **Court on its own motion vs. CBI, 109 (2003) DLT 494, Court on its own motion vs. State, 243 (2017) DLT 373, Court on its own motion vs. State, Criminal Reference No. 1/18, Data Ram Singh vs. State of UP, AIR 2018 SC 980.**

CBI vs. M/s D.G. Footwear Pvt. Ltd. & Ors.


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3. The second ground for seeking bail is that summons have been issued by this court and in terms of **Sudhir Nathani vs. CBI, 2003 (3) JCC 1883**, applicant deserves to be granted regular bail. Reliance is also placed on **Sree Kumar vs. State of Kerala, 2008 (3) KLT 748**.
4. The third ground for seeking bail is that merely because applicant is allegedly involved in an economic offence which cannot be termed as heinous offence, hence bail ought not to be denied to him. Reliance is placed on **Jitender Kumar vs. Government of NCT of Delhi, 2016 (1) JCC 652**, **Sanjay Chandra vs. CBI, 2012 (1) SCC 40**, **Manoranjana Singh vs. CBI, 2017 (5) SCC 2018**, **H.B. Chaturvedi vs. CBI, 2010 (3) JCC 2019**.
5. The other ground for seeking bail is that the trial is going to take several years to conclude and therefore accused is entitled to bail as per **State of Kerala vs. Ranees, 2011 (1) SCC 789**. It is submitted that accused has deep roots in society and reliance is placed on **Anil Mahajan vs. Commissioner of Custom, 2000 (2) JCC Delhi 302**.
6. On the other hand, in the reply filed by CBI, allegations against this accused are mentioned in para 4, 5 and 6 as under:-

"4. Investigation has revealed that M/s. NTG Builders P. Ltd. (A-14) through authorized signatory Ajay Pal (A-5) had sold property no. 201, 2nd Floor, 783-A, Ward No. XVI, Plot No. 161, Deshbandhu Gupta Road, Karol Bagh, Delhi to M/s D.G. Footwear Pvt. Ltd. through Sandeep Rathi (A-2) vide sale deed dated 12.10.2015 for consideration amount of Rs. 4.85 Cr. stated to be against receipt of full payment through Cheques no. 501831 dtd. 11.10.2015 for Rs.2,85,00000/- and Cheque no. 501830 dtd. 11.10.2015 for Rs. Rs. 2,00,00,000/- both drawn on Allahabad Bank, West Punjabi Bagh Branch, New Delhi. Investigation revealed that these Cheques were

never presented in Allahabad Bank, West Punjabi Bagh Branch, New Delhi for realization.

5. Investigation has revealed that Sandeep Rathi (A-2) as authorized signatory for M/s D.G. Footwear Pvt. Ltd. (A-1) never paid following amount as mentioned in the sale deed dated 12.10.2015 to Ajay Pal (A-5) authorized signatory for M/s NTG Builders Pvt. (A-14) Ltd. for purchase of property no. 201, 2nd Floor, 783-A, Ward no. XVI, WEA Block, BD, D.B. Gupta Road, Karol Bagh, New Delhi:-

- (i) Rs.2,85,00,000/- (Rupees Two Crore Eighty Five lacs only) vide cheques No. 501831 dtd. 11.10.2015 drawn on Allahabad Bank, Punjabi Bagh Branch, New Delhi-110026.
- (ii) Rs. 2,00,00,000/- (Rupees Two Crore only) vide cheques No. 501830 dtd. 11.10.2015 drawn on Allahabad Bank, Punjabi Bagh Branch, New Delhi-110026.

6. Investigation has revealed that Sandeep Rathi (A-2) was the Addl. Director in M/s D.G. Footwear Pvt. Ltd. w.e.f. 13.10.2015 & as authorized signatory he submitted undated application in the bank for availing CC facility of Rs. 9.25 Cr. He facilitated siphoning off the credited funds through various cheques/ vouchers issued by him in the companies directly or indirectly controlled by Deepak Gupta (A-3), Ex- Director M/s D.G. Footwear Pvt. Ltd. Sandeep Rathi (A-2) signed as authorized signatory for M/s D.G. Footwear Pvt. Ltd.(A-1) as purchaser on the sale deed dated 12.10.2015 for property No. 201, 2nd floor, of property no. 783A, Ward No. XVI, DB Gupta Marg, Karol Bagh, New Delhi from Ajay Pal (A-5) Authorized signatory of M/s NTG Builders Pvt. Ltd. Against purchase of property No. 201, 2nd floor, of property no. 783A, Ward No. XVI, DB Gupta Marg, Karol Bagh, New Delhi, the cheques given to M/s NTG Builders Pvt. Ltd. were never presented in Allahabad bank for realization."

7. The second application by **Accused No. 3 Sh. Deepak Gupta** is on the similar lines as the bail application of **Accused No. 2 Sh. Sandeep Rathi**.
8. The allegation against this accused as per CBI are given in Para 4 and 5 as under:-

4. Investigation has revealed that property i.e. 783-A, Ward No. XVI, Plot No. 161, Deshbandhu Gupta Road, Karol Bagh, Delhi (including Basement and 4 floors) in the name of M/s NTG Builders Pvt. Ltd. (A-14), Directors, Deepak Gupta (A-3) & Pankaj Kumar Chaudhary (A-4) was already mortgaged in the Misc. Cash Credit (MCC) limit of Rs. 8.30 Cr. in the account of M/s Josh Impex Pvt. Ltd., Director, Deepak Gupta (A-3), which was sanctioned on 31.12.2013. As per record obtained from the office of Sub Registrar-III, New Delhi, Deepak Gupta (A-3) Director M/s. NTG Builders Pvt. Ltd., had purchased this property from Mr. Mahesh Mehta on 27.04.2010.

5. Investigation has revealed that Deepak Gupta (A-3), Ex-Director M/s D.G. Footwear Pvt. Ltd. was the mastermind of the entire conspiracy. He was the Promoter / Director of M/s D.G. Footwear Pvt. Ltd., incorporated on 16.01.2003 and remained Director of the company till 12.10.2015 before appointing Sandeep Rathi (A-2) and Sh. Eklavya Garg as Directors in the company without any Board resolution. Even after resignation, Deepak Gupta (A-3) was controlling the affairs of the company. He was also instrumental in Sale/purchase of properties No. 201 & 202, both 2 nd floor of property no. 783-A, Ward No. XVI, DB Gupta Marg, Karol Bagh, New Delhi from M/s NTG Builders Pvt. Ltd. through sham transactions. The entire property was already mortgage with Indian Overseas Bank, Rajendra Place Branch, New Delhi against MCC limit of Rs. 8.30 Cr. obtained by M/s Josh Impex Pvt. Ltd., Director, Deepak Gupta (A-3) which was very much in his knowledge. The said property was on lease hold

for which permission of Delhi Development Authority (DDA) was required, however same was never obtained. Deepak Gupta (A-3) was also the Director in M/s Shree Hari Overseas Pvt. Ltd. and M/s. Shirdiwale Sai Exim Pvt. Ltd in which Rs. 68,30,000/- and Rs. 1.89 Cr. were transferred from the account of M/s D.G. Footwear Pvt. Ltd. (A-1) without any actual business. Since, these were non-trade transaction through which siphoning of funds had taken place, hence he had facilitated in the criminal conspiracy to cheat the Punjab National Bank. Deepak Gupta (A-3) appointed Rahul Jindal S/o Pawan Kumar Jindal (A-9) in M/s D.G. Footwear Pvt. Ltd. as Manager, Marketing on the monthly salary of Rs. 40,000/-. Besides, in M/s Sachidanand Enterprises Pvt. Ltd. he had employed Sh. Amrit Garg brother of Satish Kumar Garg (A-8). He had also facilitated New Zealand trip of Satish Kumar Garg (A-8) and his wife and paid Rs. 1.66 lacs to travel agent M/s IndAir for arranging the tickets."

9. The third application is filed by **Accused No. 4 Sh. Pankaj Kumar Chaudhary** and similar averments have been made in this application as were made by Accused Nos. 1 and 2 in their bail applications and are not reproduced to avoid repetition.
10. The allegations against Accused No. 4 are mentioned in Para 4 to 9 of the reply as under:-

"4. Investigation has revealed that property i.e. 783-A, Ward No. XVI, Plot No. 161, Deshbandhu Gupta Road, Karol Bagh, Delhi (including Basement and 4 floors) in the name of M/s NTG Builders Pvt. Ltd. (A-14), Directors, Deepak Gupta (A-3) & Pankaj Kumar Chaudhary (A-4) was already mortgaged in the Misc. Cash Credit (MCC) limit of Rs. 8.30 Cr. in the account of M/s Josh Impex Pvt. Ltd., Director, Deepak Gupta (A-3), which was sanctioned on 31.12.2013. As per record obtained from the office of Sub Registrar-III, New Delhi,

Deepak Gupta (A-3) Director M/s. NTG Builders Pvt. Ltd., had purchased this property from Mr. Mahesh Mehta on 27.04.2010.

5. Investigation has revealed that Pankaj Kumar Chaudhary (A-4) authorized signatory for M/s NTG Builders Pvt. Ltd. (A-14) sold property no. 202, 2nd Floor, 783-A, Ward no. XVI, WEA Block, BD, D.B. Gupta Road, Karol Bagh, New Delhi to Ram Kumar Singh (A-6) authorized signatory for M/s D.G. Footwear Pvt. Ltd. vide sale deed dated 15.10.2015 for consideration of Rs. 4.85 Crores.

6. Investigation has revealed that M/s. NTG Builders P. Ltd. (A-14) through authorized signatory Pankaj Kumar Chaudhary (A-4) had sold property property No. 202, 2 nd Floor, 783-A, Ward No. XVI, Plot No. 161, Deshbandhu Gupta Road, Karol Bagh, Delhi to M/s D.G. Footwear Pvt. Ltd. through authorized signatory Ram Kumar Singh (A-6) vide sale deed dated 15.10.2015 for consideration amount of Rs. 4.85 Cr. stated to be against receipt of full payment through cheque no. 501836 dated 14.10.2015 for Rs.2,85,00,000/- and cheque no. 501835 dt. 14.10.2015 for Rs.2,00,00,000/- both drawn on Allahabad Bank, Punjabi Bagh Branch, New Delhi-110026. Investigation revealed that these Cheques were never presented in Allahabad Bank, West Punjabi Bagh Branch, New Delhi for realization.

7. Investigation has revealed that Ram Kumar Singh (A-6) authorized signatory for M/s D.G. Footwear Pvt. Ltd. (A-1) never paid following amount as mentioned in the sale deed dated 15.10.2015 to Pankaj Kumar Chaudhary (A-4) authorized signatory for M/s NTG Builders Pvt. Ltd. for purchase of property no. 202, 2nd Floor, 783-A, Ward no. XVI, WEA Block, BD, D.B. Gupta Road, Karol Bagh, New Delhi-

(i) Rs.2,85,00,000/- (Rupees Two Crore Eighty Five Lacs Only) vide cheque No. 501836 dtd. 14.10.2015 drawn on Allahabad Bank, Punjabi Bagh Branch, New Delhi-110026.

(ii) Rs.2,00,00,000/- (Rupees Two Crore only) vide cheque No. 501835 dtd. 14.10.2015 drawn on Allahabad Bank, Punjabi Bagh Branch, New Delhi-110026.

8. Investigation has revealed that properties nos. 201 & 202, both 2nd floor, property No. 783A, Ward No. XVI, Plot No. 161, Deshbandhu Gupta Road, Karol Bagh, Delhi in name of M/s D.G. Footwear Pvt. Ltd. were mortgaged as collateral security in the account of M/s D.G. Footwear Pvt. Ltd.

9. Investigation has revealed that Pankaj Kumar Chaudhary (A-4) was accountant of Deepak Gupta (A-3) and Director in M/s Factor Infotek Pvt Ltd. wherein Rs. 1.01 Cr. were transferred from the account of M/s D.G. Footwear Pvt. Ltd. (A-1). Pankaj Kumar Chaudhary (A-4) was also Director in M/s Shirdiwale Sai Exim Pvt. Ltd. alongwith Deepak Gupta (A-3) wherein approx. Rs.1.89 Cr. were transferred from the account of M/s D.G. Footwear Pvt. Ltd. (A-1). Pankaj Kumar Chaudhary (A-4) could not produce any bill/ invoices for these transactions. Investigation further revealed that these were non-trade transaction through which siphoning of funds had taken place, by doing so he had facilitated in the commission of alleged offences. Investigation further revealed that Pankaj Kumar Chaudhary (A-4) was also the authorized signatory on behalf of M/s NTG Builders Pvt. Ltd. for selling property no. 202, 2 nd floor of property no. 783A, Ward No. XVI, D.B. Gupta Marg, Karol Bagh, New Delhi to Ram Kumar Singh (A-6), authorized signatory of M/s D.G. Footwear Pvt. Ltd. Pankaj Kumar Chaudhary (A-4) never presented the cheques issued in favour of M/s NTG Builders Pvt. Ltd. as mentioned in the sale deed in the bank for realization."

11. In the application of Accused No. 5 Sh. Ajay Pal also, reliance is placed on the decision of Hon'ble Delhi High Court in the case of *Court on its own motion vs. CBI (Supra)*. The other submissions are also identical to the

submissions made by Accused Nos. 1, 2, 3 and 4. The allegations against this accused are mentioned in Para 4 to 8 of the reply of CBI as under:-

4. Investigation has revealed that M/s. NTG Builders P. Ltd. (A-14) through authorized signatory Ajay Pal (A-5) had sold property no. 201, 2nd Floor, 783-A, Ward No. XVI, Plot No. 161, Deshbandhu Gupta Road, Karol Bagh, Delhi to M/s D.G. Footwear Pvt. Ltd. through Sandeep Rathi (A-2) vide sale deed dated 12.10.2015 for consideration amount of Rs. 4.85 Cr. stated to be against receipt of full payment through cheque no. 501831 dtd. 11.10.2015 for Rs.2,85,00,000/- and cheque no. 501830 dtd. 11.10.2015 for Rs.2,00,00,000/- both drawn on Allahabad Bank, West Punjabi Bagh Branch, New Delhi. Investigation revealed that these cheques were never presented in Allahabad Bank, West Punjabi Bagh Branch, New Delhi for realization.

5. Investigation has revealed that Sandeep Rathi (A-2) as authorized signatory for M/s D.G. Footwear Pvt. Ltd. (A-1) never paid following amount as mentioned in the sale deed dated 12.10.2015 to Ajay Pal (A-5) authorized signatory for M/s NTG Builders Pvt. (A-14) Ltd. for purchase of property no. 201, 2nd Floor, 783-A, Ward no. XVI, WEA Block, BD, D.B. Gupta Road, Karol Bagh, New Delhi-

(i) Rs. 2,85,00,000/- (Rupees Two Crore Eighty Five lacs only) vide cheques No. 501831 dtd. 11.10.2015 drawn on Allahabad Bank, Punjabi Bagh Branch, New Delhi-110026.

(ii) Rs.2,00,00,000/- (Rupees Two Crore only) vide cheques No. 501830 dtd. 11.10.2015 drawn on Allahabad Bank, Punjabi Bagh Branch, New Delhi-110026.

6. Investigation revealed that Ajay Pal (A-5) was an ex-employee of Deepak Gupta (A-3) in the company M/s Shri Hari Overseas Pvt Ltd. and was authorized signatory on behalf of M/s NTG Builders for selling the property No. 201, 2nd floor of property no. 783A, Ward No. XVI, DB Gupta Marg,

Karol Bagh, New Delhi to Sandeep Rathi (A-2) authorized signatory of M/s D.G. Footwear Pvt. Ltd.

7. Investigation has revealed that properties nos. 201 & 202, both 2nd floor, property No. 783A, Ward No. XVI, Plot No. 161, Deshbandhu Gupta Road, Karol Bagh, Delhi in name of M/s D.G. Footwear Pvt. Ltd. were mortgaged as collateral security in the account of M/s D.G. Footwear Pvt. Ltd.(A-1) in Punjab National Bank, Civil Lines, Delhi.

8. Investigation has revealed that entire property i.e. 783-A, Ward No. XVI, Plot No. 161, Deshbandhu Gupta Road, Karol Bagh, Delhi (including Basement and 4 floors) in the name of M/s NTG Builders Pvt. Ltd. (A-14), Directors, Deepak Gupta (A-3) & Pankaj Kumar Chaudhary (A-4) was already mortgaged in the Misc. Cash Credit (MCC) limit of Rs. 8.30 Cr. in the account of M/s Josh Impex Pvt. Ltd., Director, Deepak Gupta (A-3), which was sanctioned on 31.12.2013. As per record obtained from the office of Sub 3 Registrar-III, New Delhi, Deepak Gupta (A-3) Director M/s. NTG Builders Pvt. Ltd., had purchased this property from Mr. Mahesh Mehta on 27.04.2010."

12. The fifth application is by **Accused No. 6 Sh. Ram Kumar Singh** who has mentioned in the application that he has already joined investigation and is ready to cooperate in future also as and when the IO of the case so requires. The allegations against this accused are mentioned in Para 4 to 9 of the reply by CBI as under:-

"4. Investigation has revealed that property i.e. 783-A, Ward No. XVI, Plot No. 161, Deshbandhu Gupta Road, Karol Bagh, Delhi (including Basement and 4 floors) in the name of M/s NTG Builders Pvt. Ltd. (A-14), Directors, Deepak Gupta (A-3) & Pankaj Kumar Chaudhary (A-4) was already mortgaged in the Misc. Cash Credit (MCC) limit of Rs. 8.30 Cr. in the account of M/s Josh Impex Pvt. Ltd., Director, Deepak Gupta (A-3), which was sanctioned on 31.12.2013. As per record obtained from the office of Sub Registrar-III, New Delhi,

Deepak Gupta (A-3) Director M/s. NTG Builders Pvt. Ltd., had purchased this property from Mr. Mahesh Mehta on 27.04.2010.

5. Investigation has revealed that Pankaj Kumar Chaudhary (A-4) authorized signatory for M/s NTG Builders Pvt. Ltd. (A-14) sold property no. 202, 2nd Floor, 783-A, Ward no. XVI, WEA Block, BD, D.B. Gupta Road, Karol Bagh, New Delhi to Ram Kumar Singh (A-6) authorized signatory for M/s D.G. Footwear Pvt. Ltd. vide sale deed dated 15.10.2015 for consideration of Rs. 4.85 Crores.

6. Investigation has revealed that M/s. NTG Builders P. Ltd. (A-14) through authorized signatory Pankaj Kumar Chaudhary (A-4) had sold property No. 202, 2nd Floor, 783-A, Ward No. XVI, Plot No. 161, Deshbandhu Gupta Road, Karol Bagh, Delhi to M/s D.G. Footwear Pvt. Ltd. through authorized signatory Ram Kumar Singh (A-6) vide sale deed dated 15.10.2015 for consideration amount of Rs. 4.85 Cr- stated to be against receipt of full payment through cheque no. 501836 dated 14.10.2015 for Rs. 2,85,00,000/- and cheque no. 501835 dt. 14.10.2015 for Rs. 2,00,00,000/- both drawn on Allahabad Bank, Punjabi Bagh Branch, New Delhi-110026. Investigation revealed that these Cheques were never presented in Allahabad Bank, West Punjabi Bagh Branch, New Delhi for realization.

7. Investigation has revealed that Ram Kumar Singh (A-6) authorized signatory for M/s D.G. Footwear Pvt. Ltd. (A-1) never paid following amount as mentioned in the sale deed dated 15.10.2015 to Pankaj Kumar Chaudhary (A-4) authorized signatory for M/s NTG Builders Pvt. Ltd. for purchase of property no. 202, 2nd Floor, 783-A, Ward no. XVI, WEA Block, BD, D.B. Gupta Road, Karol Bagh, New Delhi-

(i) Rs. 2,85,00,000/- (Rupees Two Crore Eighty Five Lacs Only) vide cheque No. 501836 dtd. 14.10.2015 drawn on Allahabad Bank, Punjabi Bagh Branch, New Delhi-110026.

(ii) Rs. 2,00,00,000/- (Rupees Two Crore only) vide cheque No. 501835 dtd. 14.10.2015 drawn on Allahabad Bank, Punjabi Bagh Branch, New Delhi-110026.

8. Investigation has revealed that properties nos. 201 & 202, both 2nd floor, property No. 783A, Ward No. XVI, Plot No. 161, Deshbandhu Gupta Road, Karol Bagh, Delhi in name of M/s D.G. Footwear Pvt. Ltd. were mortgaged as collateral security in the account of M/s D.G. Footwear Pvt. Ltd. in Punjab National Bank, Civil Lines, Delhi.

9. Investigation has revealed that Ram Kumar Singh (A-6) was Chartered Accountant with Deepak Gupta (A-3) and also the authorized signatory for M/s D.G. Footwear Pvt. Ltd. (A-1) for purchase of property No. 202, 2nd floor of property no. 783A, Ward No. XVI, DB Gupta Marg, Karol Bagh, New Delhi from M/s NTG Builders Pvt. Ltd. He was also involved in the sham transaction and cheques issued by M/s D.G. Footwear Pvt. Ltd., were never presented in the bank for encashment with regard to purchase of said property."

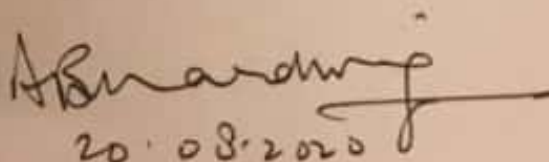
13. The sixth application is by **Accused No. 7 Sh. Rakesh Mangla** who has also relied on *Court on its own motion vs. CBI (Supra)*. He has also relied on **Lt General Tejender Singh vs. CBI**, Bail Application No. 1946/14 decided by the Hon'ble High Court on 05.09.2014. The allegations against this accused are mentioned in Para 4 of the reply of CBI as under:-

"4. Investigation revealed that Rakesh Mangla (A-7) was the Director of M/s Aaghnya Tradexim Pvt. Ltd., whose account maintained in Punjab National Bank, Civil Lines, Delhi in which an amount of Rs. 10,00,000/- was transferred fraudulently and dishonestly from the account of M/s D.G. Footwear Pvt. Ltd. (A-1) on 03.11.2015. Subsequently, on 04.11.2015, Rs. 14,00,000/- was further transferred fraudulently and dishonestly by him to the account of M/s Aaghnya Tradexim Pvt. Ltd. in Yes Bank, Karol Bagh, New Delhi through RTGS.

Since, these were non-trade transactions through which siphoning of funds had taken place, hence Rakesh Mangla (A-7) had facilitated in the commission of alleged offences."

14. The seventh application for bail is by **Accused No. 8 Sh. Satish Kumar Garg**. He has mentioned in the application that the applicant was granted anticipatory bail on 03.09.2020 and is relying on judgments already relied on by other accused which are noted above.
15. The allegations against this accused are mentioned in Para 4, 5, 6 and 7 of the reply of CBI as under:-

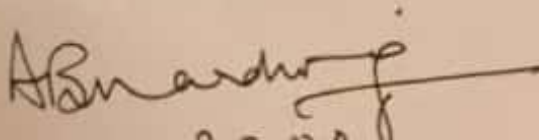
"4. Investigation has revealed that Sanjay Kumar (A-10), Panel Advocate of Punjab National Bank had submitted undated Legal Search report for properties no. 201 & 202, both 2 nd Floor, 783-A, Ward No. XVI, Plot No. 161, Deshbandhu Gupta Road, Karol Bagh, Delhi. Investigation has further revealed that Sanjay Kumar (A-10), Panel Advocate had carried out search in the office of Sub-Registrar-III, Delhi on 09.10.2015. In the column no. 16 of the search report i.e. "In Case of lease hold property, whether permission /NOC from the lessor is required for creation of mortgage? Whether permission of the lessor / NOC is obtained" he mentioned as "N.A.". He also mentioned that "The above said property is clear, mortgageable and marketable". Investigation has also revealed that Sanjay Kumar (A-10) also submitted another search report dated 10.10.2015 for these properties stating the same facts. Investigation has further revealed that property no. 201, 2 nd Floor, 783-A, Ward No. XVI, Plot No. 161, Deshbandhu Gupta Road, Karol Bagh, Delhi and property no. 202, 2 nd Floor, 783-A, Ward No. XVI, Plot No. 161, Deshbandhu Gupta Road, Karol Bagh, Delhi offered in mortgage were registered on 12.10.2015 and 16.10.2015 respectively in the name of M/s D.G. Footwear Pvt. Ltd. (A-1) in office of Sub Registrar-III, Delhi.


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5. Investigation has revealed that Legal Search Report (LSR) dated 09.07.2016 submitted by Sh. Sunil Kumar Singh, Panel Advocate of Punjab National Bank pointed out that both properties no. 201 & 202 both 2 nd Floor, 783-A, Ward No. XVI, Plot No. 161, Deshbandhu Gupta Road, Karol Bagh, Delhi in the name of M/s NTG Builders Pvt. Ltd., Director Deepak Gupta (A-3) are encumbered and charge has already been created in the loan account of M/s Josh Implex Pvt. Ltd., Director, Deepak Gupta (A-3) for mortgage in Indian Overseas Bank, Rajendra Place, New Delhi for MCC Limit of Rs. 8.30 Crores. Both these properties are part property no. 783 which has already encumbered and charged one, hence mortgage cannot be created. Investigation has further revealed that entire property no. 783 was on lease hold, hence same cannot be kept under mortgage without the permission of Delhi Development Authority (DDA). Moreover, no mortgage permission was issued by Delhi Development Authority (DDA) either in favour of M/s NTG Builders Pvt. Ltd. or in favour of M/s D.G. Footwear Pvt. Ltd. for mortgaging the said 02 properties.

6. Investigation has revealed that Sanjay Kumar (A-10), Advocate submitted false legal search report undated and dated 10.10.2015 fraudulently and dishonestly in respect of properties no. 201 & 202, both 2nd Floor, of property no. 783 A, Ward no. XVI, plot no. 160, Desh Bandhu Gupta Road, Karol Bagh, Delhi without submitting complete chain of documents in respect of said properties. On the date of submission of his legal search report, these properties were neither registered in the office of Sub Registrar-III, New Delhi nor M/s D.G. Footwear Pvt. Ltd. (A-1) was owner of these properties."

16. The eighth application for bail is by Accused No. 9 Sh. Pawan Kumar Jindal. He had stated that he had joined investigation prior to registration


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of case as well as after registration of case. The allegations against this accused are noted in Para 4, 5, 6 and 7 of the reply by CBI as under:-

"4. Investigation has revealed that Pawan Kumar Jindal (A-9) being Chief Manager/Dy. Branch head of Punjab National Bank, Civil Lines branch, Delhi from 23.04.2015 to 13.04.2016, had appraised / processed the proposal note dated 08.10.2015, which was actually prepared by M. Jaychandran, Retired Bank Officer, Punjab National Bank. Pawan Kumar Jindal (A-9) had grossly violated no. of circulars of Punjab National Bank while appraising/ processing the proposal note dated 08.10.2015 of M/s D.G. Footwear Pvt. Ltd. Investigation further revealed that Pawan Kumar Jindal (A-9) had received quid pro quo from Deepak Gupta (A-3), Ex-Director M/s D.G. Footwear (P) Ltd. in the shape of appointment of his son Sh. Rahul Jindal as Manager, Marketing in the company M/s D.G. Footwear Pvt. Ltd. (A-1), wherein remuneration of Rs. 1,20,000/- was paid to Sh. Rahul Jindal.

5. Investigation has revealed that Pawan Kumar Jindal (A-9) being public servant recommended credit facilities of appx. Rs. 62 Crores to eight group companies including M/s D.G. Footwear Pvt. Ltd. controlled/ managed by Deepak Gupta (A-3) Ex-Director M/s D.G. Footwear (P) Ltd. in gross abuse of their official position and in gross violation of the provisions contained in Punjab National Bank Circular No. 85/2014 dated 10.07.2014. Investigation also revealed that Pawan Kumar Jindal (A-9) dishonestly and fraudulently treated the eight group companies including M/s D.G. Footwear (P) Ltd. as separate borrowers so that the competence level for sanctioning the credit facilities remained within the control of Satish Kumar Garg (A-8), AGM.

6...

7..."

17. The ninth application is by **Accused No. 10 Sh. Sanjay Kumar** who has stated that he is practicing advocate. He is permanent resident of Delhi and there is no apprehension of his fleeing away. The allegations against this accused are noted in Para 4, 5 and 6 of the reply of CBI as under:-

"4. Investigation has revealed that Sanjay Kumar (A-10), Panel Advocate of Punjab National Bank had submitted undated Legal Search report for properties no. 201 & 202, both 2 nd Floor, 783-A, Ward No. XVI, Plot No. 161, Deshbandhu Gupta Road, Karol Bagh, Delhi. Investigation has further revealed that Sanjay Kumar (A-10), Panel Advocate had carried out search in the office of Sub-Registrar-III, Delhi on 09.10.2015. In the column no. 16 of the search report i.e. "In Case of lease hold property, whether permission /NOC from the lessor is required for creation of mortgage? Whether permission of the lessor / NOC is obtained" he mentioned as "N.A.". He also mentioned that "The above said property is clear, mortgageable and marketable". Investigation has also revealed that Sanjay Kumar (A-10) also submitted another search report dated 10.10.2015 for these properties stating the same facts. Investigation has further revealed that property no. 201, 2 nd Floor, 783-A, Ward No. XVI, Plot No. 161, Deshbandhu Gupta Road, Karol Bagh, Delhi and property no. 202, 2 nd Floor, 783-A, Ward No. XVI, Plot No. 161, Deshbandhu Gupta Road, Karol Bagh, Delhi offered in mortgage were registered on 12.10.2015 and 16.10.2015 respectively in the name of M/s D.G. Footwear Pvt. Ltd. (A-1) in office of Sub Registrar-III, Delhi.

5. Investigation has revealed that Legal Search Report (LSR) dated 09.07.2016 submitted by Sh. Sunil Kumar Singh, Panel Advocate of Punjab National Bank pointed out that both properties no. 201 & 202 both 2 nd Floor, 783-A, Ward No. XVI, Plot No. 161, Deshbandhu Gupta Road, Karol Bagh, Delhi in the name of M/s NTG Builders Pvt. Ltd., Director Deepak Gupta (A-3) are encumbered and charge has already been created in the loan account of M/s Josh Implex Pvt. Ltd.,

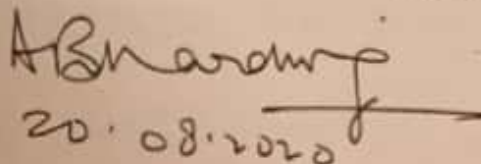
Director, Deepak Gupta (A-3) for mortgage in Indian Overseas Bank, Rajendra Place, New Delhi for MCC Limit of Rs. 8.30 Crores. Both these properties are part property no. 783 which has already encumbered and charged one, hence mortgage cannot be created. Investigation has further revealed that entire property no. 783 was on lease hold, hence same cannot be kept under mortgage without the permission of Delhi Development Authority (DDA). Moreover, no mortgage permission was issued by Delhi Development Authority (DDA) either in favour of M/s NTG Builders Pvt. Ltd. or in favour of M/s D.G. Footwear Pvt. Ltd. for mortgaging the said 02 properties.

6. Investigation has revealed that Sanjay Kumar (A-10), Advocate submitted false legal search report undated and dated 10.10.2015 fraudulently and dishonestly in respect of properties no. 201 & 202, both 2nd Floor, of property no. 783 A, Ward no. XVI, plot no. 160, Desh Bandhu Gupta Road, Karol Bagh, Delhi without submitting complete chain of documents in respect of said properties. On the date of submission of his legal search report, these properties were neither registered in the office of Sub Registrar-III, New Delhi nor M/s D.G. Footwear Pvt. Ltd. (A-1) was owner of these properties."

18. The tenth application for bail is filed by **Accused No. 11 Sh. Birender Prasad Singh**. He has relied on **State of Maharashtra vs. Nainmal Punjaji Shah, 1969 (2) SCC 904, Para 25** where it is held that in matters of allegations of tampering with evidence or absconding, there must be absolute certainty before the accused can be incarcerated on that ground. He has also relied on the judgments which have already been noted while discussing the bail applications of other accused. The allegations against this accused are mentioned in Para 4 and 5 of the reply by CBI as under:-

"4. Investigation has revealed that Birendra Prasad Singh (A-11), Panel Valuer of Punjab National Bank had submitted

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highly inflated Valuation Report dated 12.10.2015 in respect of property no. 201, 2nd Floor, 783-A, Ward No. XVI, Plot No. 161, Deshbandhu Gupta Road, Karol Bagh, Delhi and another Valuation Report dated 12.10.2015 in respect of property no. 202, 2nd Floor, 783-A, Ward No. XVI, Plot No. 161, Deshbandhu Gupta Road, Karol Bagh, Delhi.

5. Investigation has revealed that Sh. Sukhwant Singh, an employee of Birendra Prasad Singh (A-11) visited both these properties, took photographs, obtained the market value of the property from the brokers of the area, took measurement of the property and handed over the same to Birendra Prasad Singh (A-11), who did not visit the said properties physically and prepared the valuation reports dated 12.10.2015 of the said 02 properties arriving at market value of Rs. 5,34,46,000/- for each property. Whereas, property No. 202, 2 nd Floor, 783-A, Ward No. XVI, Plot No. 161, Deshbandhu Gupta Road, Karol Bagh, Delhi was registered in the name M/s D.G. Footwear Pvt. Ltd. (A-1) on 16.10.2015 in the office of Sub Registrar-III, Delhi. Investigation further revealed that value of both these properties were assessed and fixed by Birendra Prasad Singh (A11)."

19. The eleventh application for bail is by **Accused No. 12. Sh. Rupesh Gupta**. He has also relied on Court on its own motion vs. CBI and other judgments which have already been noted above. The allegations against this accused are mentioned in Para 4 and 5 of the reply of CBI, which is as under:-

"4. Investigation has revealed that Sh. Shiv Kumar Keer, Prop. M/s Sun Tech Traders was introduced by one Mr. Tiwari to Rupesh Gupta (A-12) at his office at Netaji Subhash Place, New Delhi, for sanction of loan for his business purpose where, Rupesh Gupta (A12) told Sh. Shiv Kumar Keer that for business purpose, a current account is required. Subsequently, Sh. Shiv Kumar Keer opened a current account no.008383800005390 in Yes bank, Model Town branch, New

Delhi and handed over blank cheque book to Rupesh Gupta (A-12) as per his direction. Later, Rs.1.15 Crores were diverted in the account of M/s Sun Tech Traders from the account of M/s D.G. Footwear Pvt. Ltd. (A-1)

5. Investigation has revealed that Rupesh Gupta (A-12) as authorized signatory for M/s Sun Tech Traders diverted Rs.1.15 Crores fraudulently and dishonestly from the account of M/s Sun Tech Traders to other account either managed/ controlled by him (Rupesh Gupta, A-12) or by his brother Rakesh Mangla (A-7)."

20. The twelfth application for bail is by **Accused No. 13 Ms. Sonal Gupta** and she has also taken standard defences like investigation is complete, she was not arrested during investigation and no fruitful purpose would be served by sending her to the judicial custody in the present case. The allegations against this accused are noted in Para 4 and 5 of reply by CBI as under:-

"4. Investigation has revealed that Sonal Gupta (A-13), elder sister of Deepak Gupta (A-3) and also the authorized signatory in M/s Shree Hari Overseas Pvt. Ltd. (A-16), in whose account Rs. 67,00,000/- was transferred through RTGS from the account of M/s Factor Infotek Pvt. Ltd. (A-15) on 30.10.2015. On the same day i.e. 30.10.2015, Rs. 67,00,000/- was further diverted by Sonal Gupta (A-13) in her personal account no. 044201000021635 in Indian Overseas Bank, Rajendra Place, New Delhi through RTGS. Later, the same amount was used for purchase of property at Pushpanjali Enclave, Pitampura, New Delhi for which Sonal Gupta (A-13) and Sh. Sanjay Gupta obtained housing loan of Rs. 2.64 Crores from Punjab National Bank, Civil Lines Branch, New Delhi. 5. Investigation has revealed that Sonal Gupta (A-13) was aware about the non-trade transaction between M/s D.G. Footwear Pvt. Ltd. (A-1) and M/s Shree Hari Overseas Pvt. Ltd. (A-16) being the authorized signatory of M/s Shri Hari Overseas Pvt. Ltd. and later the property at Pushpanjali

Enclave, Pitampura, New Delhi was also purchased in her (Sonal Gupta A-13) name therefore, she is the beneficiary of proceeds of crime."

21. Arguments were addressed by Sh. Vijay Aggarwal and Ms. Barkha Rastogi, Ld. Counsels for Accused No. 2 Sh. Sandeep Rathi, Accused No. 3 Sh. Deepak Gupta and Accused No. 4 Sh. Pankaj Kumar Chaudhary, Sh. Shashi Bhushan, Ld. Counsel for Accused No. 5 Sh. Ajay Pal, Sh. Prakash Kashyap, Ld. Counsel for Accused No. 6 Sh. Ram Kumar Singh, Sh. Anil Kumar, Ld. Counsel for Accused No. 7 Rakesh Mangla, Sh. Manish Kumar Singh, Ld. Counsel for Accused No. 8 Sh. Satish Kumar Garg, Sh. Samundar Sain, Ld. Counsel for Accused No. 9 Sh. Pawan Kumar Jindal, Ld. Counsel for Accused No. 10 Sh. Sanjay Kumar, Sh. Siddharth Satija and Ms. Saujanya, Ld. Counsels for Accused No. 11 Sh. B.P. Singh, Sh. Anil Kumar, Ld. Counsel for Accused No. 12 Sh. Rupesh Gupta and Sh. Kshitij Ahlawat, Ld. Counsel for Accused No. 13 Ms. Sonal Gupta and the applications for bail were opposed by Sh. B.K. Singh, Ld. Sr. PP for CBI.
22. This court has gone through the bail applications, replies by CBI, chargesheet and also taken into consideration the arguments addressed.
23. The present case is squarely covered by the directions of the Hon'ble Delhi High Court in the case of *Court on its own motion vs. CBI (Supra)*. The accused were not arrested during investigation. Accused No. 8 Sh. Satish Kumar Garg is already granted anticipatory bail by the Hon'ble High Court on 03.09.2019. This court had issued summons at the time of taking cognizance of the offences with regard to different accused persons. The crime charged is not of highest magnitude and punishment provided is not

of extreme severity. Nothing has been shown that the accused will not be present at the time of judgment. No material is there to suggest that the accused may pollute the process of justice. There is no bad record of the accused to suggest that they may commit serious offences while on bail. The IO had not arrested the accused during investigation and now no strong case is made out to place the accused in judicial custody. Besides the other grounds for bail, it is also to be noted that the world is facing Covid Pandemic. Although, for giving interim bail as a concession due to ongoing pandemic, the accused involved in corruption cases have been exempted by the Hon'ble High Power Committee of the Hon'ble High Court but still pendency of pandemic will be one of the circumstances for considering the applications for bail of these accused persons, in as much as, they were not arrested during the trial. There is no allegation that they did not cooperate in the investigation. All the accused have appeared when summoned before this court. The only apprehension of CBI is that the accused, if granted bail, may tamper with the evidence. The apprehensions of the investigating agency and prosecution can be allayed by giving direction to the accused that they shall not try to influence the witnesses. In such event, the prosecution is always entitled to exercise right of cancellation of bail. It is also noted that most of the evidence is documentary in nature which is already collected and filed with the chargesheet by the investigating officer. Resultantly, all the applications for bail are allowed. The interim bail granted in favour of accused persons is confirmed. The conditions of bail would be:-

- (i) All the accused shall attend the proceedings regularly and punctually for smooth conduct of trial. The accused shall not try to influence any witness or tamper with the evidence.
- (ii) No accused shall visit abroad without permission of this court. All the accused shall surrender their passports with the IO of the case and

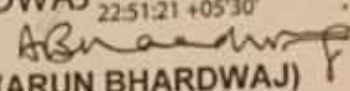
those accused who do not have any passport, shall file affidavit stating that they do not have any passport. The accused shall furnish personal bond and surety bond in the sum of Rs.1,00,000/-. On reopening of courts, all the accused shall appear along with their sureties and solvency documents.

24. A copy of this order be sent by whatsapp to Ld. Sr. PP for CBI, accused and their Ld. Counsels.

ARUN

BHARDWAJ

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ARUN BHARDWAJ
Date: 2020.08.20
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(ARUN BHARDWAJ)

Special Judge, CBI-05 (PC Act),
Rouse Avenue District Court,
New Delhi/20.08.2020

Ct.Case No. 53/2019

ED Vs Ashutosh Verma

20.08.2020

Present: Sh.Nitesh Rana, Ld.Spl.PP for ED,
Sh.P.K.Dubey Ld. Counsel for accused Ashutosh Verma alongwith
Advocates Sh.Shri Singh and Sh.Shiv Chopra.

(Through VC using Cisco WebEx App.)

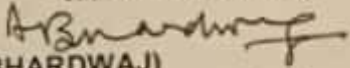
The case is at the stage of Prosecution Evidence, therefore can be taken
up only on reopening of the Courts.

List on 29.09.2020 for P.E.

Let a copy of this order be sent by WhatsApp to Ld. Spl.PP for ED, the
accused as well as the learned counsel for the accused.

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Date: 2020.08.20 22:59:56 +05'30'


(ARUN BHARDWAJ)
Special Judge, CBI-05 (PC Act),
RADC, New Delhi/ 20.08.2020