



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

1.S.B. Criminal Miscellaneous Bail Application No. 6273/2020

Dr. Ashok Singhvi S/o A.M. Singhvi, R/o 7 Hospital Road C-Scheme
Jaipur (Presently Confined In Central Jail Jaipur)

----Petitioner

Versus

Union Of India, Through The
Additional S.G.

Uma Nand Vijay Assistant
Director, Directorate Of
Enforcement IInd Floor Jeevan
Nidhi-II L.I.C. Bhawan Bhawani
Singh Road Jaipur

----Respondents



2. S.B. Criminal Miscellaneous Bail Application No. 6923/2020

Mohammad Rashid Sheikh S/o Shri Akbar Deen Sheikh, Aged About
54 Years, R/o Nai Abadi Khajodpura Gaon Sawa Ps Shambhoopura
Dist. Chhitorgarh Raj. (At Present Confined In Central Jail Jaipur)

----Petitioner

Versus

Umanand Vijay, assistant Director, Enforcement Directorate IIn Floor
Jeevan Nidhi-II L.I.C. Bhawan, Bhawani Singh Road, Jaipur

----Respondent

For Petitioner(s) : Mr. Deepak Chauhan with
Mr. Mohit Khandelwal
Mr. Anil Upman, through VC

For Respondent(s) : Mr. R.D. Rastogi, ASG with
Mr. Anand Sharma, through VC

HON'BLE MR. JUSTICE SATISH KUMAR SHARMA

Order

Date of Order:

July _6_, 2020



1. These bail applications under Section 439 Cr.P.C. have been filed by the accused applicants in Sessions Case No.1/2019 pending in the court of Special Court (Money Laundering Act, 2002) Jaipur Metropolitan, Jaipur for offence under Section 3/4 of the Prevention of Money Laundering Act, 2002 involving an amount of Rs.2.55 Crores as tainted money of scheduled offence

of corruption in mining department of the State Government of Rajasthan.

2. Heard learned counsel for both the sides and perused the material available on record as well as written submissions filed on behalf of non applicants.

3. Mr. Anil Upman and Mr. Deepak Chauhan learned counsel for both the accused applicants have submitted that similarly situated co-accused persons have been enlarged on bail by the coordinate bench of this court vide order dated 12-5-2020 and the case of accused applicants is not distinguishable from them. Both the applicants are not required for the purpose of investigation/enquiry as the Enforcement Directorate has already filed the complaint in the matter. During the course of investigation, statements of both the applicants were recorded and they fully cooperated in the investigation. Neither they were arrested during the course of investigation, nor there was any prayer to summon them through arrest warrants. Both the applicants have already been granted bail in the scheduled offences, on the basis of which this case has been registered. Both the applicants could not appear before the trial court immediately after the summoning by

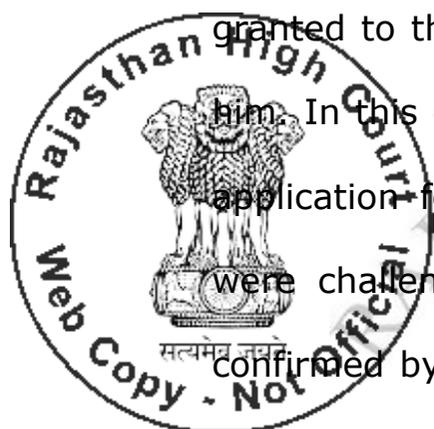


the trial court, as they were pursuing legal remedies available to them. Both the applicants also satisfy the conditions of triple test on the basis of which other co-accused persons have been granted bail. The bail applications should be allowed. Learned counsel for the applicants have relied upon the judgments in Sita Ram Vs. State of Rajasthan [1994(1) RLW 227], Suraj Vs. State of Rajasthan [RLW 1986 Raj. 325], Data Ram Singh Vs. State of U.P. [(2018)3 SCC 22], P. Chidambaram Vs. CBI [AIR 2019 SC 5273], P. Chidambaram Vs. Directorate of Enforcement [AIR 2019 SC 1669], Sanjay Chandra Vs. CBI [(2012)1 SCC 40], Sushila Aggarwal Vs. State (NCT of Delhi) [(2020 SCC Online SC 98], S. Kassi Vs. State [JT 2020(6) SCC 363] and Siddharam Satlingappa Mhetre Vs. State of Maharashtra [2011 Cr.L.R. (SC) 1].

4. Mr. R.D.Rastogi, learned ASG assisted with Mr. Anand Sharma has vehemently opposed the bail applications with the submissions that as per settled legal position expounded by Hon'ble Supreme Court in series of judgments, bail in economic offences must be considered on altogether distinct criteria as the same affect the economy as a whole and destroy the very basic fiber of the Society. The bail cannot be granted solely on the ground of parity i.e. co-accused persons have been granted bail, but while considering the bail application, the prima-facie case, role of each accused, conduct of the accused and other relevant factors should be taken into account. In this case most important factor of prima-facie case in the light of relevant provision of the Prevention of Money Laundering Act, 2002 (hereinafter 'the PML Act') has not been considered by Hon'ble coordinate Bench and



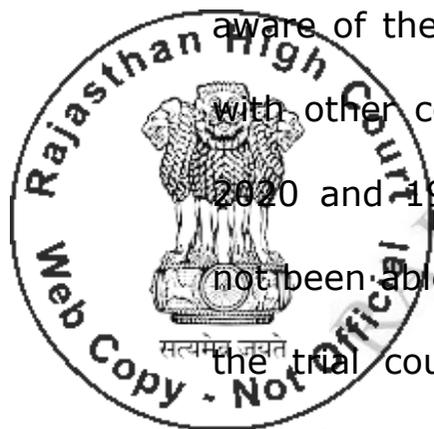
therefore, the department is in the process of getting cancelled the bail granted to co-accused persons. Since scheduled offences and other offences of IPC are totally distinct from the offences punishable in PML Act, the applicants are not entitled for bail on the basis of bail granted to them for the scheduled offence related to this case. As per Section 45 of the PML Act, bail cannot be granted to the accused if prima-facie offence is made out against him. In this case, cognizance order and the order of rejecting the application for conversion of non bailable warrants into bailable were challenged by the accused applicants but the same were confirmed by this court as well as by the Hon'ble Supreme Court.



Hence, it cannot be disputed that prima-facie offence is made out against the applicants. Thus, the bar on granting bail to the applicants under Section 45 of the PML Act is squarely applicable in this case. It was further submitted that it is also settled legal position that the accused is not entitled for bail solely on the ground that he was not arrested during enquiry/ investigation, and filing of complaint/ charge sheet indicates that offence is made out against the accused. Both the accused applicants are kingpin of this case, accused applicant Ashok Singhvi was holding the post of Principle Secretary, Department of Mines, Government of Rajasthan. He misused the position to earn bribe in a planned conspiracy. A total amount of Rs.2.55 crores were seized and recovered in the raid conducted by the Anti Corruption Bureau, out of which Rs.1.58 crores were arranged by the applicant Mohd. Rashid Sheikh. Strong evidence in the form of call recordings, bank account details, other ocular, documentary and circumstantial evidence is available in view of which they cannot



claim parity with those co-accused persons, who have been granted bail. Besides above position, the conduct of the present applicants differentiates them from other co-accused persons because they themselves surrendered before the trial court on 19-2-2020/ 17-3-2020, as per order of the Hon'ble Supreme Court of India whereas present accused applicants despite being fully aware of the situation did not surrender on 17-02-2020 in parity with other co-accused persons, rather they surrendered on 1-6-2020 and 19-6-2020, respectively. The accused applicants have not been able to point out any illegality or infirmity in the order of the trial court rejecting the bail applications. Thus in view of factual matrix of the case and applicable legal provisions, no case of bail is made out at all and the bail applications deserve to be dismissed. He placed reliance on the judgments in Kanwar Singh Meena Vs. State of Rajasthan [(2012)12 SCC 180], State of UP Vs. Amarmani Tripathi [(2005)8 SCC 21], Mahipal Vs. Rajesh Kumar @ Polia, Criminal Appeal No.1843/ 2019 @ SLP (Cri.) No.6339/ 2019 decided on 5-12-2019, State of Orissa Vs. Mahimananda Mishra [(2018)10 SCC 516], Shyam Sunder Singhvi Vs. Union of India, SB Cr. Revision Petition No.273/2019 decided on 24-1-2020, Shyam Sunder Singhvi Vs. Union of India [Special Leave to Appeal (Crl.)No.792/2020 decided on 10-2-2020], Dr. Ashok Singhvi Vs. State of Rajasthan [SB Cr. Misc. (Pet.) No.2805/2016 decided on 23-3-2018], Dr. Ashok Singhvi Vs. State of Rajasthan [Special Leave to Appeal (Crl.) No.7267/2018 decided on 24-9-2018], Dr. Shivender Mohan Singh Vs. State of NCT of Delhi [W.P. (Crl) Urgent 10/2020 decided on 6-4-2020], Suo motu Vs. State of Rajasthan [DB Civil Writ Petition





No.5618/2020 decided on 17-5-2020], Y.S. Jagan Mohan Reddy Vs. Central Bureau of Investigation [(2013)7 SCC 439], Serious Fraud Investigation Office Vs. Nittin Johari [(2019)9 SCC 165], State of Gujarat Vs. Mohanlal Jitamalji Porwal [(1987)2 SCC 364], Pankaj Jain Vs. Union of India [(2018)5 SCC 743], Dinesh Kumar Vs. State of M.P. [M.Cr.C. No.9763/2020 decided on 19-3-2020], Nikesh Tarachand Shah Vs. Union of India [(2018)11 SCC 1], Rakesh Manekchand Kothari Vs. Union of India [2015 SCC Online Guj. 3507], M/s. VGN Developers P. Ltd. Vs. The Deputy Director, Directorate of Enforcement, [Cri.O.P. No.9796/2019 decided on 4-10-2019], Anand Chauhan Vs. Directorate of Enforcement [2017 SCC Online Del 7790], Virupakshappa Gouda Vs. State of Karnataka [(2017)5 SCC 406], Sanjay Sethi Vs. Union of India [SLP (Criminal) No.2224/2020 decided on 12-3-2020], Nitin Johari Vs. Serious Fraud Investigation Office [Bail Appln. No.1971/2019 decided on 27-1-2020], Oro Trade Network (India) Limited Vs. Rajesh Kumar Sharma [SB Cr. Miscellaneous Bail Application No.14613/2018 decided on 6-12-2018], Arpit Jain Vs. Union of India [SB Cr. Misc. Bail Application No.16957/2017 decided on 18-12-2017], Smt. Himani Munjal [SB Cr. Miscellaneous Bail Application No.10350/2018 decided on 10-9-2018] and Sandeep Kumar Agrawal Vs. Union of India [SB Cr. Miscellaneous Bail Application No.7499/2018 decided on 5-7-2018].

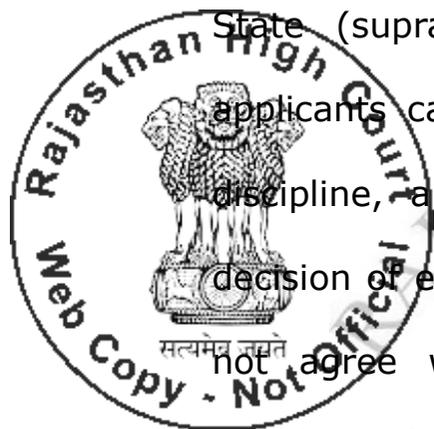


5. The contentions put forth by both the sides have been carefully considered in the light of judicial pronouncements referred to above.



6. Learned counsel for both the accused applicants have urged for bail mainly on the basis of parity with those co-accused persons, who have been enlarged on bail by coordinate bench of this court.

7. In this regard, the legal position expounded in *S. Kasi Vs State* (supra) and other judgments cited on behalf of the applicants cannot be disputed that in order to maintain judicial discipline, a coordinate bench is bound to follow the judicial decision of earlier coordinate bench. If the coordinate bench does not agree with the principle of law enunciated by another coordinate bench, the matter must be referred to a larger bench.



8. While having full respect to the coordinate bench of this Court and without making any comment on its order, suffice it to note the relevant legal position expounded in above referred judgments that while granting or refusing bail to an accused in a particular case, the role of every accused in the alleged crime along with other relevant factors are to be considered. A particular accused cannot claim to be released on bail only on the ground of grant of bail to other co-accused person. Accordingly even the same bench in a given case grants bail to an accused and refuses to another one having different footings.

9. In the instant case, other co-accused persons have been enlarged on bail by the coordinate bench of this court but the case of present applicants is not similar to those co-accused persons looking to their major role in the alleged crime, the evidence



collected against them, their conduct of evading trial and other relevant factors.

10. Without expressing any opinion to the merits of the case, suffice it to say that the record of the case prima facie reveals that being Principle Secretary of Mining Department, accused Ashok Singhvi has been main kingpin of the conspiracy, in furtherance of which a huge amount of Rs.2.55 crores was collected as bribe. Ample evidence including telephone recording, call details is available on the record which very well connects him with the crime. Likewise, accused Rashid Sheikh has also played a key role in the scheduled offence as he admittedly arranged Rs.1.58 crores out of total tainted money of Rs.2.55 crores.

11. Besides above distinct major role of the present applicants, other co-accused persons, who have been granted bail, had surrendered themselves before the trial court within the stipulated time as per the order of the Hon'ble Supreme Court of India and thus they shown respect to the legal system but the present applicants, who were well aware of the order of the Hon'ble Supreme Court of India, willfully evaded the process without any cogent reasons and instead of 17-02-2020, they surrendered before the trial court only on 1-6-2020 and 19-6-2020.

12. In view of settled legal position and the fact of finality of cognizance order in this case, such contentions of applicants are not tenable that they are entitled for bail due to bail in scheduled



offence or they were not arrested during the course of investigation.

13. It has not been held in the judgments, cited by counsel for the applicants, that a particular accused having different footings or distinguished case is entitled for bail only on the basis of bail granted to other co-accused, hence the same do not help the applicants.

14. In view of the above, the case of both the present accused applicants cannot be said to be similar to that of those co-accused persons who have been enlarged on bail by coordinate bench of this court, therefore, keeping in view the specific major role of the present accused applicants, strong evidence available against them, their conduct to evade the trial, probable impact on the Society on granting bail to present accused applicants having distinct status in this economic offence of severe nature of rampant corruption in Government departments and all other relevant factors as envisaged in PML Act, as well as in above referred judicial pronouncements, both the present applicants do not deserve to be enlarged on bail.

15. As a result, the applications of both the present accused applicants are hereby dismissed.

(SATISH KUMAR SHARMA),J

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