

M.Cr.C.No.6763/2016
M.Cr.C.No.7498/2016

06.05.2016

Shri Anil Khare, learned Senior counsel with Ms Namrata K. Agrawal, learned counsel for the applicant – Sanjeev Saxena in both the cases.

Shri Vikram Singh, learned counsel for the respondent/C.B.I.

Heard counsel for the parties.

These are repeat bail applications. The applicant before his arrest had applied for anticipatory bail, which was rejected. After arrest, he moved application for grant of bail, which was rejected as the investigation was still in progress. The applicant approached with prayer of bail right upto the Supreme Court by way of SLP (Criminal) Nos.9863/2015 and 1535/2016. The same were disposed of on 14.12.2015 and 1.4.2016 respectively. Those petitions were dismissed with observations, giving liberty to the applicant to apply for bail afresh after the time prescribed therein or completion of investigation. The relevant portion of the said order, reads thus:

“.....Though the learned Solicitor General had submitted, on instructions received, that about six months further

time is required, we are of the view that the CBI should endeavour to complete the investigation in these cases by 31st March, 2016. Thereafter it will be open for the accused petitioners to move the learned trial Court for bail once again.

Insofar as the accused Sanjeev Saxena is concerned, we make it clear that once the investigation in terms of the present order is completed within the time-frame indicated above, it will be open for the accused Sanjeev Saxena to move for bail in any other connected case (s) that may have been instituted against him.”

(emphasis supplied)

After lapse of three months, the applicant once again moved the Trial Court for grant of bail, which, however has been rejected. Against that decision, the applicant has approached this Court by way of present applications.

The applicant has been arrested in connection with two crimes originally registered by STF as Crime Nos.15/2013 and 17/2013. STF after investigation had filed charge-sheet against the applicant. The applicant was arrested in connection with Crime No.17/2013 on 25.05.2014 and in Crime No.15/2013 on 28.08.2014. Since then he is in jail.

The role ascribed to the applicant in the charge-sheets filed by the STF, is that, he acted as a middleman and conduit between the candidates, who indulged in unfair means during the examination conducted by VYAPAM and another middleman - Sudhir Sharma, who, in turn, manipulated the records with the help of Nitin Mohindra working in VYAPAM. It is not in dispute that the candidates arranged by the applicant as middleman in Crime No.15/2013 is one and in Crime No.17/2013 are two, in all three. The role ascribed to the applicant is that he collected amount from those candidates and made it over to Sudhir Sharma. This is the limited role ascribed to the applicant, as can be discerned from the charge-sheets filed by STF.

CBI took over the investigation of these crimes as back as in July 2015. The order passed by the Supreme Court in the case of applicant makes it amply clear that sufficient time was given to CBI to complete the investigation. As aforesaid, the applicant is in custody since May, 2014 for almost two years. STF had filed charge-sheets against the applicant after completion of investigation. CBI has not been able to collect any further material to indicate that the role of the applicant was much

more than what is mentioned in the charge-sheets filed by STF against the applicant. If so, the objection to these applications now raised by the CBI, have no causal connection to the role of applicant. Therefore, that cannot be the basis to deny the relief of bail to the applicant. According to CBI, the collection of evidence to prove the custody of chain of digital records and to prove the authorship of the excel sheet found on the retrieval of the hard disc, is still awaited. It is also stated in the objection that CBI is yet to collect evidence relating to money trail.

Considering the fact that the role of the applicant is limited to collecting money and handing it over to Sudhir Sharma, the reason stated by the CBI to oppose these applications are not germane qua this applicant. The investigation against the applicant in that sense is not moving any further and CBI has not been able to decipher any material that would indicate that the role of the applicant is much more than the role ascribed in the charge-sheets filed by STF.

Taking overall view of the matter, therefore, we are inclined to grant bail to the applicant since he has already spent around two years in jail in connection with two offences and the evidence about the role of applicant is

already collected by STF and also by CBI, who is investigating these crimes from July, 2015. The fact that entire investigation concerning these crimes is incomplete, cannot be the basis to deny bail to the applicant especially when candidates for whom the applicant acted as middleman have already been released on bail and that Sudhir Sharma, to whom amount was handed over by the applicant, is in jail in connection with the same offences. This Court has released couple of middlemen having similar role to that of applicant in the commission of crime and further the applicant through counsel undertakes to extend full cooperation for further investigation, if any, to be undertaken by the CBI and to scrupulously abide by all the conditions as may be imposed by the Court.

Counsel for the applicant submits that the applicant has already surrendered his passport and it is in the custody of the Trial Court.

Taking over all view of the matter, in the interest of justice, applicant – **Sanjeev Saxena** is ordered to be released on bail, in connection with the aforesaid two crimes on the following strict conditions :-

- (1) The applicant shall furnish personal bond in the sum of **Rs.15,00,000/-** (Rupees

Fifteen Lacs) in **each** crime with two local solvent sureties or blood relatives in the like amount **each** to the satisfaction of the Trial Court for his regular appearance during the trial in connection with **Crime Nos. 13/2013 & 17/2013** in Police Station S.T.F. Bhopal;

- (2) The applicant shall also comply with the conditions enumerated under Section 437 (3) of Cr.P.C. meticulously;
- (3) Additionally, the applicant will report to the nearest Police Station where he would reside at 13/34, Manit Parisar, Bhopal (M.P.) once a week on every Sunday between 10:00 a.m. to 12:00 noon and he shall also appear on every date before the Investigating Officer when called upon to do so and also the concerned Trial Court as may be directed by that Court in the respective crime; and
- (4) The applicant shall submit affidavit stating that the passport surrendered before the Trial Court on 08.10.2015 has

not been withdrawn or taken back by the applicant and that he shall not do so without taking prior permission of this Court. This compliance will be condition precedent for release on bail.

- (5) In case, any complaint is received against the applicant after his release on bail, the respondents are free to seek cancellation of bail granted to the applicant.

The bail applications stand **disposed of** accordingly.

Certified copy as per rules.

(A. M. Khanwilkar)
Chief Justice

(Sanjay Yadav)
Judge