



\$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Reserved on: 20.09.2023
Pronounced on: 26.09.2023

+ **BAIL APPLN. 809/2015**

NIKHIL KANT SYAL Petitioner
Through: Mr. Shailendra Bhardwaj and
Mr. Aroma S. Bhardwaj,
Advocates.

versus

STATE OF NCT OF DELHI Respondent
Through: Mr. Satish Kumar, APP for the
State with SI Chanda Singh,
PS Jaffarpur Kalan.
Mr. Harpawan Kumar Arora,
Advocate for Committee
Golden Forests (P) Ltd.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

CRL.M.A. 25588/2023 (for permission) and CRL.M.A. 25475/2023 (or waiving or deleting the condition in the order dt.09.10.2019)

1. The present application has been filed under Section 482 of Code of Criminal Procedure ('Cr.P.C.') for waiving and/or deleting the condition in the order dated 09.10.2019 passed by this Court *vide* which the applicant was granted anticipatory bail in case arising out



of FIR bearing no 192/2007, registered at Police Station Jaffarpur Kalan under Sections 406/409/467/468/471/120B of Indian Penal Code, 1860 ('IPC').

2. By way of present petition, it is submitted *vide* order dated 28.04.2015, this Court had granted interim protection to the applicant in the present FIR and the said interim order was continued by this Court from time to time. It is stated that ultimately, *vide* order dated 09.10.2019, this Court had granted anticipatory bail to the applicant in the present case. However, a condition was imposed *vide* the said order to the effect that the applicant shall deposit his passport, if any, with the concerned Trial Court and shall not leave the country without the concerned Trial Court's approval.

3. Learned counsel for the applicant states that even after more than 15 years of registration of FIR, charge-sheet has not been filed by the Investigating Officer against the present applicant. It is further stated that the learned Trial Court *vide* an order dated 24.08.2023 has observed as under:

“Report on behalf of the IO filed. Perusal of the report shows that accused Nikhil Kant Syal joined the investigation on 10.08.2023. He further submitted that he will file the supplementary charge-sheet soon. Under these circumstance, let, notice be issued to IO with direction to conclude further investigation and file the supplementary charge-sheet on 20.10.2023.”

4. It is now argued that *vide* orders dated 17.03.2020, 20.12.2021, 01.02.2022, 10.03.2022, 02.05.2022, 01.07.2022, 24.08.2022, 16.12.2022, 28.03.2023, the applicant was either granted permission to go abroad or such permissions were extended from time to time,



and he has never misused the liberty granted to him. It is now argued that the wife and two children of the applicant are British Nationals and presently residing in London, United Kingdom, however, the applicant is required to seek permission from the Court each time he wants to go and meet his wife and children. It is argued that the applicant is engaged in real estate business as a consultant and he intends to explore the possibilities of setting up a start up company in India with the help of some companies in the United Kingdom and other parts of the world, for which he is required to be present there on a short notice for personal interactions. It is also argued that he may lose certain opportunities for business in case the condition seeking prior permission of the learned Trial Court to go abroad is not waived. Therefore, it is prayed that the present application be allowed.

5. Learned APP for the State, on the other hand, has argued to the contrary. It is stated that considering the seriousness of the allegations against the applicant, and in view of the fact that chargesheet *qua* the applicant is yet to be filed, no ground for modifying the bail conditions is made out.

6. This Court has heard arguments by both the parties and has perused the material placed on record.

7. The applicant in the present case has sought modification of the bail order dated 09.10.2019 to the extent that the condition requiring him to obtain prior permission of the learned Trial Court before leaving the country be deleted/waived off.

8. In this regard, the relevant portion of the order *vide* which the



applicant was granted anticipatory bail by this Court reads as under:

“...5. Considering the above, this Court considers it apposite to allow the present petition.

6. The petitioner is granted bail subject to the petitioner furnishing a personal bond in the sum of ₹50,000/- with one surety of the like amount to the satisfaction of the concerned trial court. This is also subject to the additional condition that the petitioner shall join the investigation and also appear before the concerned courts as and when called upon to do so. The petitioner shall deposit his passport, if any, with the concerned Trial Court and not leave the country without the concerned Trial Court’s approval.

7. The petition is allowed in the aforesaid terms...”

9. Though it is not disputed that the accused has been granted opportunities to go abroad on about nine occasions and he has not misused the liberty of bail granted to him, this Court at the same time cannot loose sight of the fact that serious allegations of cheating and forgery have been levelled against the applicant.

10. In the present case, the FIR was registered on the complaint lodged by complainant Sangit Aggarwal on the allegations that one Golden Projects Limited was the owner of agricultural land measuring 119 bighas, 11 biswa at village Issapur, Najafgarh, Delhi, and the directors of the said company had passed a resolution dated 30.08.2000, thereby appointing one Sh. Rakesh Kumar as its authorised signatory and representative to sell the aforesaid land. It was stated that on the basis of the said resolution, Sh. Rakesh Kumar had transferred the entire agricultural land in favour of one Madan Lal in the year 2003 for a sale consideration of Rs. 50 Lakhs. Thereafter, Sh. Madan Lal had sold 71 bighas, 01 biswa out of the total agricultural land, for a sale consideration of Rs. 35 lakhs, to the



complainant herein in the year 2004. However, eventually the directors of the Golden Projects Limited were found to be involved in several fraudulent activities including cheating the public at large. It had further become clear that the directors of Golden Projects Limited had entered into a criminal conspiracy with the revenue officials of South West District, Kapashera, Delhi and had prepared a false resolution in the year 2000 *vide* which one Naresh Kumar had been authorised to sell the said agricultural land. It was alleged that on the basis of the said forged resolution, Naresh Kumar had sold 71 bighas, 01 biswa of land belonging to the complainant herein in favour of M/s. Pearls Infrastructure Limited for sale consideration of about Rs. 2.6 crores. It was also alleged that the revenue officials had issued NOC in favour of Golden Projects Limited despite the fact that Sh. Madan Lal had already requested the officials not to issue NOC in favour of anyone regarding the land in question. The complainant had alleged that as per his knowledge, M/s. Pearls Infrastructure Limited was a company created by the directors of Golden Projects Limited and the accused persons by way of a criminal conspiracy had forged a resolution and had resold the land in question. During investigation, it was revealed that SEBI had also filed several cases against Golden Projects Limited since the said company had grabbed the money of several investors. It was also revealed during investigation that the **present applicant** had brought the forged resolution in favour of Naresh Kumar and it was on the instructions of the applicant that Naresh Kumar had executed the sale deed of the land in question on the basis of said forged resolution.



11. The case at hand is a multi victim case and the allegations are serious in nature. The chargesheet against the applicant is yet to be filed. Furthermore, it is not the grievance of the applicant that on any occasion when he had applied for grant of permission to go abroad, the permission was denied to him.

12. As held by the Hon'ble Apex Court, the fundamental right to travel abroad in cases where a person is facing trial in a criminal case is subject to reasonable restrictions and is not absolute. In this regard, this Court deems it appropriate to refer to the observations of Hon'ble Apex Court in case of *Barun Chandra Thakur v. Ryan Augustine Pinto 2019 SCC OnLine SC 1899*, whereby while setting aside an order modifying such a condition, the Apex Court had held as under:

“9. On an overall conspectus of the circumstances, this court is of the opinion that since the chargesheet had been filed, there was no material alteration in the facts, justifying the High Court to modify the conditions governing the grant of anticipatory bail. Significantly, an identical application for modification of the conditions of bail was made earlier by the respondent, which did not meet with success; he withdrew that application. There could be no gainsaying to that the right to travel abroad is a valuable one and an integral part of the right to personal liberty. Equally, however, the precondition of securing prior permission before travelling abroad is a crucial ingredient which undoubtedly was engrafted as a condition for the grant of anticipatory bail in this case. Mere inconvenience in the matter of approaching the court, therefore absent of any significant change of circumstances (i.e. framing of charges or no significant or serious material emerging during the trial, in the course of deposition of key witnesses, as to the role of the respondent), ought not to have led to dilution of the terms of the High Court's previous consistent orders...”

13. Considering the overall facts and circumstances of the case, at



this stage, this Court is not inclined to waive the condition which has been imposed after considering all the material facts and circumstances of the case and there is no material change in the circumstances.

14. This Court, however, directs that the learned Trial Court may seek a report from the Investigating Officer as to why chargesheet has not been filed in this case against the applicant till date, although the FIR in this case was registered in the year 2015.

15. Accordingly, the present applications stand dismissed.

16. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on merits of the case.

17. A copy of this judgment be forwarded to the concerned Trial Court for necessary information.

18. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

SEPTEMBER 26, 2023/kd