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

Decided on : 30th November, 2022

+ **BAIL APPLN. 2033/2022**

BRAJENDRA SINGH BHADOURIYA Petitioner
Through: Mr Mohit Mathur, Sr Advocate
with Mr C.M Patel, Mr Sarvendra
Singh and Mr Rohini Prasad
Tiwari, Advocate.

versus

CENTRAL BUREAU OF INVESTIGATION Respondent
Through: Mr Ripu Daman Bhardwaj, Special
PP with Mr Kushagra Kumar,
Advocate

CORAM:
HON'BLE MS. JUSTICE POONAM A. BAMBA

JUDGMENT

POONAM A. BAMBA, J. (ORAL)

1.0 This is an application on behalf of the petitioner namely Brajendra Singh Bhadouriya (A-27) filed through his pairokar/wife Smt. Shashi Devi, under Section 439 read with Section 482 Cr.P.C for the grant of regular bail in FIR No. RCBDI/2014/E/0004/CBI/BS&FC New Delhi dated 19.02.2014.

2.0 It is submitted that the above FIR came to be registered pursuant to the directions of the Hon'ble Supreme Court vide order dated 12.03.2013 in Civil Appeal No. 6572 of 2004 in the matter of M/s PGF Ltd. Vs. Union of India & Ors. First charge sheet in the matter was filed on 07.04.2016 and the present petitioner/accused was not named therein, though reference to him

appeared in the same. The petitioner had been joining the investigation and cooperating by providing information/documents as sought, from time to time, by the CBI. In the supplementary charge sheet, which was filed on 31.12.2021, the petitioner was named along with other accused persons as accused no. A-27. CBI filed the supplementary charge sheet without arresting the petitioner/accused. The petitioner was summoned by the court pursuant to filing of the supplementary charge sheet. The petitioner had duly appeared before the Ld. Special Judge, CBI and moved a bail application. However subsequently, on his appearance, the petitioner was taken into custody by the court on 27.04.2022, rejecting his bail application. The petitioner continues to be in judicial custody since then.

2.1 It is also submitted that the petitioner had been co-operating with the investigation throughout. No recovery of any incriminating document/material has been made from/at the instance of the petitioner.

2.2 It is further submitted that the petitioner is a government servant and was employed as a Patwari in Tehsil Raun, District Bhind, Madhya Pradesh during the period 2009-11 in the Revenue Department. He is not connected with creation of any alleged forged sale deed as he was neither a witness nor a deed writer nor a beneficiary in any manner whatsoever. He has not received any monetary benefit from any of the accused companies, its directors, employees directly or indirectly. There is no money trail or link connecting the petitioner/accused with the accused companies ; even as per the status report filed by the CBI, the money from

Pearl Group came to Janeshwar Das's Company that is, M/s Hariom Build Pro.

2.3 It is also submitted that there are total 447 witnesses cited by CBI ; 182 vide first charge sheet and 265 vide second/supplementary charge sheet. Therefore, there is no possibility of conclusion of the trial in near future.

2.4. Ld. Senior counsel for the petitioner also argued that main accused Chander Bhushan Dhillon, a director of M/s PGF Ltd., who allegedly has been directly involved in the primary offence of raising funds by cheating gullible investors, has already been admitted to bail by Ld. Special Court, CBI vide order dated 16.04.2022. Further, other co-accused persons i.e. A-14, A-20, A-22, A-23, A-24 and A-25 whose role was graver have also been admitted to bail by the Coordinate Bench of this court vide order dated 13.06.2022. The petitioner thus deserves to be released on bail as he stands on a better footing.

2.5. Ld. Senior counsel further submitted that evidence in the present case is documentary in nature and all such documents/sale deeds have already been collected by CBI and as such, there is no question of tampering with the evidence by the petitioner.

2.6. Ld. Senior counsel also submitted that the petitioner has already been discharged in disciplinary proceedings ; the petitioner is a family person having old parents, wife and three daughters and has deep roots in the society. Therefore, he is not a flight risk.

3.0. On the other hand, this application is strongly opposed by the CBI. Ld. Special Public Prosecutor submitted that the present case relates to a ponzi scheme whereby the principal perpetrator companies M/s Pearl Agrotech Corporation Ltd. (**'PACL'** in short) and M/s PGF Ltd. (**'PGF'** in short), cheated more than 5.4 crore small investors of their hard-earned money to the tune of approximately 45,000 crores. He submitted that the present petitioner was posted as Patwari at the relevant time and there are grave charges against him of being instrumental in helping in preparation of bogus/fake sale deeds of non-agricultural land.

3.1. Mr. Ripu Daman Bhardwaj, Ld. Special Public Prosecutor also submitted that several of the directors of PGF/PACL continue to remain in custody in the present FIR. He further submitted that the arrest of the present petitioner at this stage was occasioned by the evidence, which came to light in the course of investigation.

3.2. Ld. Special Public Prosecutor further submitted that during investigation, it was revealed that 190 sale deeds showing purchase of land in the Districts of Bhind and Datia in Madhya Pradesh, were fake and bogus. It was further established that plots of land shown in the said fake/bogus sale deeds were purportedly purchased in the names of different companies through authorized person Sh. Janeshwar Dass ; and M/s PGF Ltd, diverted Rs. 79.80 Crore to M/s Hariom Buildpro (P) Ltd. of Sh. Janeshwar for purchasing the land.

3.3. Ld. Special Public Prosecutor further submitted that it also came on record during investigation that the petitioner, who was posted as Patwari in the Raun Tehsil, District Bhind, was approached by Sh. Janeshwar Dass @ Janeshwar Singh through one Manoj Kumar ; on which, the petitioner helped Sh. Janeshwar Singh in creation of fake/bogus sale deeds. Said sale deeds were not registered at the offices of the Sub-Registrar and were signed at the office of PGF Limited located at New Delhi by the employees of M/s PGF Ltd. (as Buyers) in presence of the petitioner/A-27, who was instrumental in creation of fake sale deeds. The petitioner also got signatures of Sh. Janeshwar Dass on the fake/bogus sale deeds (as buyer) at the residence of Sh. Janeshwar Dass in Panipat.

3.4. Ld. Special Prosecutor also submitted that it has also come in the statement of Sh. Ramanand Sharma (PW-60) that Sh. Janeshwar, Advocate (Vakeel Sahab) had visited Gwalior in connection with signing of the sale deeds at a Hotel in Gwalior ; and once they had visited the residence of Janeshwar Dass at Panipat in Haryana for obtaining his signature and thumb impression on the sale deeds ; that Janeshwar Das had signed on number of sale deeds as buyer and the same were not signed in the office of Sub-Registrar, Bhind/Datia. He also stated that at that time, he was with the petitioner Brajendra Singh Bhadoria, whom he knew was Patwari and was not an official from the office of Sub-Registrar.

3.5. Ld. Special Public Prosecutor argued that the petitioner, if

released on bail, can win over the prosecution witnesses/tamper with the evidence.

3.6. Ld. Special Public Prosecutor also submitted that as far as the parity sought to be drawn by the petitioner with other accused persons Chander Bhushan Dhillon and A-14, A-20, A-22, A-23, A-24 and A-25, who were granted bail vide order dated 16.04.2022 and 13.06.2022, respectively is concerned, CBI has already challenged the said bail orders and its applications for cancellation of bail, are pending.

4.0. I have duly considered the submissions made by both the parties.

5.0. As mentioned above, FIR in question came to be registered against the two companies namely PACL and PGF and their officials as they illegally floated a Collective Investment Scheme (CIS) without complying with the relevant SEBI Regulations in this respect. Under the garb of investment in land/development of agricultural land, they raised huge funds from large number of gullible investors promising them a fixed return on the land. They also created documents to show the reverse sale of the land by the investors to the company; repayment being routed through several associate companies of PACL and PGF.

6.0. Allegations against the petitioner are that he was instrumental in assisting in creation of bogus/fake sale deeds and is thus a part of the larger conspiracy in cheating gullible

investors. Ld. Special Prosecutor submitted that investigation in the matter is still continuing and considering the allegations against the petitioner being a part of conspiracy in execution of grave economic offence, he does not deserve to be released on bail.

6.1. In this respect, Ld. Senior Counsel for the petitioner, argued that even in case of grave economic offences, bail cannot be denied on that ground alone ; at best, this could only be one of the considerations. In support, he placed reliance upon the judgment in **P. Chidambaram vs Central Bureau Of Investigation (2020) 13 SCC 79**. He also argued that in the facts of the case, the petitioner qualifies all the tests as laid down by the Hon'ble Supreme Court in the cases **P. Chidambaram (supra)** and **'Satender Kumar Antil vs. Central Bureau of Investigation, (2022) 10 SCC 51**.

6.2. Ld. Special Public Prosecutor in this respect submitted that the observations made in these cases, cannot be disputed. But every case turns on its own facts.

6.3. There cannot be any quarrel about the proposition that bail cannot be declined to an accused only because the accused is charge-sheeted for a grave economic offence. Coming to the facts of the instant case, it is submitted on behalf of the petitioner that he never evaded the process of law during all these years since registration of the FIR in 2014 ; he has been joining the investigation as and when required ; he had not made any attempt of fleeing from justice. Same is not disputed.

6.4. Petitioner has also submitted that investigation qua the petitioner has been completed. This fact is not disputed by Ld. Special Public Prosecutor, though he submitted that unless something comes up against the petitioner in future.

6.5. Further, the supplementary charge sheet against the petitioner, wherein the petitioner has been implicated as accused/A-27, was filed, without arrest of the petitioner.

7.0. The fact that so far, total 447 witnesses have been cited by the CBI vide charge sheets already filed in the matter, is not disputed. Petitioner's plea that it would take a long time in examination of these witnesses/conclusion of trial, more so, as the investigation is still continuing as per CBI, cannot also be disputed.

8.0. The petitioner is a government servant, (though stated to be under suspension) and is a family person and is not having any previous involvement.

9.0. Chander Bhushan Dhillon, a director of M/s PGF Ltd, has already been admitted to bail by Ld. Special Court, CBI, vide order dated 16.04.2022. Ld. Senior counsel also drew attention of this Court to the order of this Court dated 13.06.2022, whereby six other accused persons i.e. A-14, A-20, A-22, A-23, A-24 and A-25, who allegedly provided accommodating entries to PACL and PGF thus facilitating diversion of funds (obtained from the investors), to these companies, have been granted bail.

10.0. Considering the above facts and circumstances in entirety and that the petitioner is a government servant, a family person, has been joining the investigation and cooperating in the investigation ; and taking into account that the above co-accused persons have already been granted bail, trial in the matter would take a long time, the petitioner is admitted to bail on his furnishing a personal bond in a sum of Rs. 2,00,000/- (Rs. Two lacs only) with one surety in the like amount, to the satisfaction of Ld. trial court, subject to the following conditions :-

- a) the petitioner shall not tamper with evidence in any manner ;
- b) the petitioner shall not contact, threaten, influence or intimidate any witness in the case, in any manner;
- c) the petitioner shall not leave the country without prior permission of the court;
- d) the petitioner shall appear before the Ld. Trial Court on each and every date of hearing and as and when required ;
- e) the petitioner shall inform in advance about any change in his address/mobile number to the Ld. Trial Court.

10.1. Violation of any of the above terms and conditions by the petitioner shall be a ground for cancellation of bail.

11.0. The bail application of the petitioner Brajendra Singh Bhadouraiy is disposed of, accordingly.

12.0. Needless to mention that anything stated hereinabove shall not tantamount to expression of opinion on merits of the case.

POONAM A. BAMBA, J

NOVEMBER 30, 2022

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Click here to check corrigendum, if any

