

CBI Versus Sunny Kalra and others
C.C.No. 246/2019

21.09.2020

Present:- Shri B.K. Singh learned Senior P.P. for CBI with HIO
Inspector S. Sridhar Iyer.
Accused No. 1 Sunny Kalra (through VC from Tihar Jail)
with Shri Bharat Gupta learned counsel for the accused.
Accused No. 2 M/s. Samadhan Management represented by
Accused No. 7 Shri Rajesh Goel with learned counsel Shri
Chandra Gupta.
Accused No. 3 Shri. Pavan Arya MVSR with learned counsel
Shri Akhand Pratap Singh.
Accused No. 4 Shri Robin Davis is not summoned.
Accused No. 5 Shri A.R.K. Prasad and Accused No. 6 G.
Balasubramanian with learned counsel Shri K.K. Nadar.
Accused No. 7 Shri Rajesh Goyal and Accused No. 8 Shri
Amit Aggarwal with learned counsel Shri Chandra Gupta.
Accused No. 9 Shri Puran Nath Juneja with learned counsel
Shri Hitendra Kapoor.
Accused No. 10 Shri Anil Kumar Goel with learned counsel
Shri Yogesh Verma.
Accused No. 11 Sh.M.L. NASA with learned counsel Shri
Mayank Maini.

(Through VC using Cisco WebEx app)

1. Today, the case is listed for orders on the application under Section 439 of Cr.P.C. filed by Accused No. 1 Sunny Kalra for bail.
2. In the application, the accused has mentioned that chargesheet has been filed on completion of investigation and his judicial custody is not required for any purpose. He has submitted that the account was declared NPA account in 2014 but FIR was filed belatedly in the year

2017. Reliance is placed on Tejinder Singh versus CBI MANU/DE/2082/2014 to submit that the Investigating Officer did not deem it proper to arrest the accused during investigation or forward him in custody under Section 170 Cr.P.C. while filing the chargesheet under Section 173 Cr.P.C. Reliance is also placed on the fact that this court had issued summons after taking cognizance of the offence. It is also mentioned that the accused is a respectable citizen and has never been held guilty of violating any law, he has deep roots in society and there is no likelihood of his fleeing away. The accused has relied on the decision of Hon'ble Delhi High Court dated 06.05.2020 in Criminal M.C. No. 1468/2020 titled as the State (NCT of Delhi) versus Sanjeev Kumar Chawla where there are directions to the state to adopt technology of GPS to trace the location of accused.

3. In the **reply filed by CBI**, the allegations against this accused have been mentioned in Para 6 as under:-

"That, investigation has revealed that applicant accused Sunny Kalra in criminal conspiracy with others including bank officers fraudulently and dishonestly got sanctioned Corp Vyapar Loan of Rs.7.6 Crores on the basis of forged and bogus documents in order to cheat bank to cause wrongful loss to the government exchequer and corresponding gain for himself through a fictitious firm M/s. White Metals. Accused borrower could not be examined during investigation because he and his family members had been absconding since 2014. There are clear-cut evidence available against him proving that he indulged in criminal conspiracy, forgery and preparation of bogus financial records with a clear motive to defraud the bank. It is established that he has used various bogus documents for financial and other supportive documents required for the sanction of the loan. There is sufficient oral as well as documentary evidence

on record to prove the involvement of the applicant accused in commission of offence."

4. It is also mentioned in the reply filed by CBI that if the accused is granted bail, there is every likelihood that he will influence the witnesses, which shall affect the trial of the case.

5. In the **additional reply filed by CBI** it is mentioned that the accused Sunny Kalra never joined the investigation and fled from India before the registration of a FIR and never returned during whole investigation. He remained outside India till the filing of chargesheet. Best efforts were made during investigation to ascertain his location, but his whereabouts could not be traced during investigation as he had sold out all his properties in India. His whereabouts were known for the first time when he filed anticipatory bail before the court of learned Special Judge (CBI), RADC, New Delhi wherein address of Dubai was given by the accused. The accused was arrested in Muscat, Oman as he was found travelling on bogus travel documents and also Interpol Red Notice published by Anti Corruption-1 Branch, CBI was existing against him. The accused was deported to India on 6th March 2020 in connection with CBI Case No. RC/AC-1/2015/A0005/CBI/AC-1 New Delhi and was brought to India based on Emergency Certificate (Temporary Passport) valid for only six months issued by Indian Embassy Muscat, Oman. It is also mentioned that in CBI Case No. RC/AC-1/2015/A0005/CBI/AC-1 New Delhi, the accused has caused wrongful loss to Punjab National Bank to an extent of Rs.10.99 Crores. Further, in CBI Case No. RC/DST/2017/A0014/STB/CBI/ New Delhi, the accused has caused wrongful loss to Punjab National Bank to an extent of Rs.8 Crores. In case in hand, he has caused wrongful loss to Corporation Bank to an extent of Rs.4 Crores. Presently, the accused is in judicial custody in

CBI Case No. RC/DST/2017/A0014/STB/CBI/New Delhi where his application for bail was dismissed by the learned Special Judge and the application for anticipatory bail was also dismissed by the Hon'ble Delhi High Court.

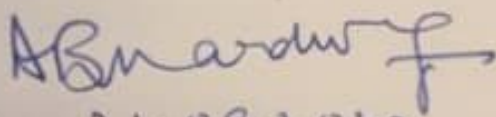
6. After the reply of CBI, the accused has filed affidavit of one Bharat Kundani stated to be the cousin brother of the accused who has submitted that he is ready to keep the title deeds of his property at Narela residential area whose worth is nearly 2 Crores and is ready to indemnify the Corporation Bank to an extent of Rs.4 Crores in case the accused absconds and does not face the trial.

7. The learned counsel for the accused also brought on record the fact that the accused has been granted bail vide orders dated 13.05.2020 in RC/AC-1/2015/A/005 but the accused was denied bail in RC/DST/2017/A0014/STB/CBI/ New Delhi vide orders dated 03.09.2020.

8. Lastly, the investigating officer has filed written submissions stating therein that at the time of arrest of the accused, the accused has informed that he has a passport Z2621696 valid till the year 2023 and unless and until that passport is not surrendered by the accused, he be not released on bail.

9. However, in response, the learned counsel for the accused has relied on **Wording of the Court Sentence** dated 13.09.2020 from the office of Sultanate of Oman, Public Prosecution, the Directorate General of Judgement Execution and Follow Up to show that passport Z2621696 was a fake passport and has been confiscated by the aforesaid office.

10. This court has considered the submissions of learned counsel for the accused as well as learned Senior Public prosecutor for CBI.


21.09.2020

11. **Decision with reasons:-**The accused can be safely called a serial offender. He has cheated Punjab National Bank as well as Corporation Bank and is facing prosecution in three cases. He is accused of cheating the banks in these three cases to an extent of Rs.22 Crores. In RC/AC-1/2015/A/005, the bank has managed to recover so far only Rs.4.89 Crores.

12. The accused remained untraceable during investigation of all the three cases including this case. His whereabouts could not be traced as he had sold all his properties in India. He has no permanent address in India. He has no roots in India, leave aside deep roots, in as much as his brother Sanjay Kalra, his sister-in-law Varsha Kalra, his own wife Arti Kalra and another relation Sajan Kalra all are fleeing from trial and are in UAE.

13. The accused was arrested in Muscat, Oman as he was found travelling on bogus travel documents and also Interpol Red Notice published by Anti Corruption-1 Branch, CBI was existing against him. He has been brought before this court, by sheer luck of the investigating agency, on his arrest at Oman for travelling with bogus travel documents and with lot of efforts and wastage of time. He was compelled to approach the courts in India for relief by filing application for anticipatory bail only when his deportation to India became imminent. Had the accused not been arrested at Oman for travelling with bogus travel documents, he would have been untraceable even today.

14. The past conduct of this accused has caused serious apprehensions that he will not face the trial and will try to go incognito within India or may also try to escape from India by hook or crook. In the entirety of circumstances, this court is not inclined to give any consideration to the affidavit of Bharat Kundani.

15. As per own showing of the accused, he has been convicted once at Oman for using a fake document (Passport) with knowledge that it is forged passport.

16. The accused is a classic case of flight risk.

17. Considering involvement of this accused in three cases of cheating the banks involving more than 22 Crores of Rupees, considering that he had ran away from India and had to be brought by coercive means after his arrest by Oman authorities for using fake passport and considering that all his near and dear relations who are also accused in other cases are still staying at UAE, thereby showing that he has no roots in India, this court is not inclined to grant bail to this accused.

18. Resultantly the application for bail is dismissed.

19. CBI has not filed reply to the application for bail moved on behalf of Accused No. 3 Pavan Arya MVSR and Accused No. 11 M.L. Nasa. HIO Inspector S. Sridhar Iyer has informed that the reply is ready but due to connectivity problem could not be filed.

20. List for arguments now on the pending applications on 26.09.2020 at 10 AM.

21. Learned counsel Shri Akhand Pratap Singh for Accused No. 3 Pavan Arya MVSR submits that the personal bond and surety bond, in terms of directions of this court, were sent to the email ID of reader of this court on the last date of hearing itself. This fact has been confirmed by the reader today. The same is accepted till disposal of application for bail. A letter be sent to the bank not to release the FDRs without permission of this court.

22. Let a copy of this order duly digitally signed be sent immediately to the prison authorities at the official email ID of the Dak Section of Tihar

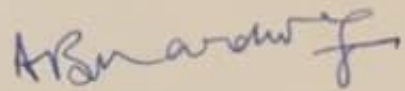
jail as informed vide their letter dated 19.08.2020 with the directions to produce the accused Sunny Kalra through videoconference on the next date at the time fixed for the said hearing

23. A copy of this order be also sent to the learned Senior PP for CBI as well as to the learned counsel for the accused Sunny Kalra.

24. Interim orders for bail granted in favour of other accused persons shall continue till further orders.

ARUN
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by ARUN
BHARDWAJ
Date: 2020.09.21
16:34:54 +05'30'



(ARUN BHARDWAJ)
Special Judge (PC Act)
(CBI-5), Rouse Avenue
District Court, New
Delhi:21.09.2020