

CC No. : 01/2015
ECR No. : DLZO/15/2014/AD(VM)
U/S : 3 & 4 of PMLA Act
ED Vs. Gautam Khaitan & Ors.

29.08.2020 (2.00 pm)

Matter is taken up today at the request of Ld. Counsel for Enforcement Directorate and the proceedings are conducted through Video Conferencing (Cisco webex) as per directions of Hon'ble High Court issued vide Circular No.322/RG/DHC/2020 dated 15.08.2020 in view of the pandemic Covid-19.

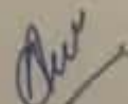
Present: Sh. N.K. Matta, Ld. PP for Enforcement Directorate.
Sh. Yogeshwar Sharma, DD is present.
Ms. Ramanjeet Kaur, Joint Director, ED.

Case file perused. ED has filed certain documents at the email ID of the Court.

Some more clarifications sought. Matter is already listed for order at 5.00 pm.

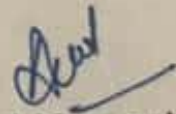
Put up for order at 5.00 pm.

Signed copy of this order is being sent through



whatsapp to Ahlmad of this Court with direction to send the same to concerned official of District Court, RADC for uploading on official website of Delhi District Court.

The signed hard copy of the order shall be placed on record as and when the regular functioning of the Courts at Rouse Avenue Complex, New Delhi is resumed.



(Arvind Kumar)
Special Judge CBI-10
Rouse Avenue Courts
New Delhi/29.08.2020

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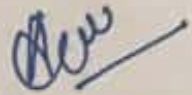
Vide separate order, application filed by the Enforcement Directorate for issuance of NBW against Shravan Gupta, is allowed.

Signed copy of this order is being sent through whatsapp to Ahlmad of this Court with direction to send the same to concerned official of District Court, RADC for uploading on official website of Delhi District Court.

The signed hard copy of the order shall be placed on



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(Arvind Kumar)
Special Judge CBI-10
Rouse Avenue Courts
New Delhi/29.08.2020

IN THE COURT OF ARVIND KUMAR, CBI-10
ROUSE AVENUE COURTS : NEW DELHI

CC No. : 01/2015
ECR No. : DLZO/15/2014/AD(VM)
U/S : 3 & 4 of PMLA Act
ED Vs. Gautam Khaitan & Ors.

ORDER

1. Vide this order I shall dispose of an application filed by the Enforcement Directorate for issuance of NBW against accused Shravan Gupta.

2. It is submitted that on the complaint filed by Ministry of Defence, a case vide RC No. 217 2013 A 003 U/S 120B r/w Section 420 IPC r/w Section 7, 8, 9, 12 & 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 was registered by CBI, New Delhi. Since the aforesaid offences are schedule offences in Part A of the schedule under PMLA, which constitute offence of money laundering U/S 3 of Prevention of Money Laundering Act and punishable under section of the said Act, hence, the present case vide ECIR No. 15/DLZO/2014 dated 03.07.2014 U/S 3 r/w 4 of PMLA was registered and investigation was initiated.

3. It is submitted that the offences were detected in respect of award of contract dated 08.02.2010 by Ministry of Defence, Government of India to M/s Agusta Westland International Ltd.



(AWIL) for the supply 12 AW 101 VVIP/VIP helicopters to Indian Air Force with Associated Engineering Package vide No. AIR (HQ)/S 96062/6/ASI to an aggregate price of Euro 556.262 Million (equivalent value approximately Rs.4100 crores). Following the registration of predicate offence by Law Enforcement Agency i.e. CBI, investigation disclosed that substantial proceeds of crime are generated. Above mentioned ECIR was recorded in the matter by Delhi Zone, Enforcement Directorate on 03.07.2014 and is now investigating the circumstances surrounding the laundering of money by M/s Agusta Westland SPA, a company of M/s Agusta Westland, UK, by transferring of large sum of "Proceeds of Crime".

4. Ld. Counsel for ED submitted that M/s. AgustaWestland International Limited, United Kingdom engaged the middlemen namely Mr. Guido Haschke and Mr. Carlo Gerosa alongwith the existing consultant, Mr. Christain Michel James to influence the contract for VVIP helicopters in favour of M/s. AgustaWestland International Limited. Mr. Guido Ralph Haschke and Mr. Carlo Gerosa received commissions through their companies M/s. Gordian Services Sarl, Tunisia (Gordian) to the tune of Euro 400,000 and M/s IDS Information Technology and Engineering SARL., Tunisia (IDS Tunisia) amounting to Euro 24,377,020 under disguised sham agreement. Mr. Guido Haschke and Carlo Gerosa arranged further payment of kickbacks to influence the contract for VVIP helicopters in favour M/s. AgustaWestland International Limited, UK.



5. It is further submitted that out of the funds received in M/s IDS Information Technologies & Engineering Sarl, Tunisia, Euro 12.4 million were transferred to the accounts of M/s Interstellar Technologies Limited, Mauritius, which is one of the main fronts which has been used for laundering the proceeds of crime in the present case. It is further submitted that out of funds received in M/s Interstellar Technologies Limited, huge amount of proceeds of crime were transferred in accounts of those companies which are under the control of Mr. Shravan Gupta.

6. It is further submitted that the bank account statement of M/s Interstellar Technologies Limited has been received from Mauritius through the execution of Letter Rogatory. The scrutiny of the same revealed that part of the proceeds of crime received in M/s Interstellar Technologies Limited, Mauritius was further transferred to various companies which are under control of Shravan Gupta Viz M/s Natille Overseas Inc. Panama; M/s. Timekeeper Limited, BVI; M/s. Mayfair Trust Management SA and M/s Hall Park Property Holdings Limited. Therefore, Shravan Gupta is in receipt of proceeds of crime in the present case.

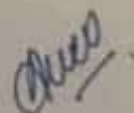
7. Ld. Counsel for ED further submitted that Mr. Guido Haschke was the Non-Executive Director of M/s Emmar MGF Land Limited, whose Managing Director was Mr. Shravan Gupta, from 25.09.2009 to 07.12.2009. It is submitted that vide dispatch dated

06.12.2009 Christian Michel James advised Guido Haschke, to resign. The contents of the dispatch are:-

"I am deeply concerned about this developing situation with Emaar. I wanted to warn you to resign as a Non-Executive Director in India two weeks ago but I have been waiting for a certain document to show you how bad the situation is. Unfortunately, things have gone wrong quicker than I have expected."

8. Accused Guido Haschke resigned on 7.12.09 from M/s Emaar MGF Land Limited as a Non-Executive Director which was the consequence of Mr. Christian Michel James ' dispatch dated 06.12.09. Mr. Christian Michel James was a middlemen engaged by M/s AgustaWestland to get the contract in its favour.

9. It is further submitted that Shravan Gupta is presently residing in England, United Kingdom. Mr. Shravan Gupta had been summoned on 23.11.19 for appearance on 25.11.19 but he did not join the investigation. Shravan Gupta in response to the summons dated 23.11.19 stated that he was unwell and that he shall join investigation once he recovers. He submitted medical report dated 24.11.19 which showed that he has been advised complete rest at home for the next 6 days. However, Shravan Gupta left India on 26.11.19 despite his claim of being unwell. This shows his clear intention to avoid the investigation. Further, he was summoned many time to join investigation but he failed in doing so. It is submitted that summons were issued on 23.11.19, 16.12.19,



23.12.19, 7.2.20, 25.2.20, 3.7.20, 17.7.20, 23.7.20 and 4.8.20 for his appearance but he did not appear.

10. Ld. Counsel for ED further submitted that an intelligence was received that Shravan Gupta and his family members have applied for citizenship of Commonwealth of Dominica. By doing so, Shravan Gupta is evading joining the investigation for commission of offence under PMLA and scuttling the proceedings qua himself on account of non-appearance and there is every possibility that he will take foreign citizenship to avoid investigation and evade due process of law. It is further submitted that ED has recently conducted a search and seizure operation on the group of companies and associates of Shravan Gupta and incriminating documents and digital devices were seized. The seized material of search has revealed that the family members of Sh. Shravan Gupta had indeed applied for the citizenship of Commonwealth of Dominica.

11. It is further submitted that incriminating facts and documents have come to the light and hence Shravan Gupta needs to be confronted with these documents. Therefore, custodial interrogation of Shravan Gupta would be required for effective investigation. It is submitted that Shravan Gupta is evading the process of law and NBW against him is necessary to secure his presence .



12. I have gone through the material on record.

13. It is noted that summon was issued on 23.11.2019 to Shravan Gupta for appearance before ED official on 25.11.2019, however he gave reply through one Rahul Upadhyay that he was not well and was unable to appear. He has also attached medical certificate regarding his illness. As per said medical certificate dated 24.11.2019 Shravan Gupta was suffering from high grade fever with complete loss of appetite for two days and he was advised complete rest at home for next six days. However Shravan Gupta left India on 26.11.2019 after two days of this certificate. Shravan Gupta, on one hand stated that he was ailing and could not appear before ED for investigation but left India, without informing ED, within two days of the said certificate despite advice of the doctor for rest at home, for 6 days.

14. Thereafter number of summons were sent to him to appear before the ED official and join investigation, however, Shravan Gupta failed to appear before Enforcement Directorate. Last summon was sent to Shravan Gupta on 04.08.2020 with the direction to appear on 07.08.2020 but Shravan Gupta instead of appearing before the ED, sent reply that because of his medical condition he was advised not to travel hence he is unable to appear before ED officials. Shravan Gupta has also attached a copy of letter dated 08.07.2020 of Dr. Sandeep Bolia. The said letter dated 08.07.2020 mentions that Shravan Gupta is suffering from Type-II



Diabetes, hypothyroidism, Hypercholesterolaemia, impaired breathing and extreme fatigue and his condition in the context of corona virus pandemic, place him at high risk and thus he is unfit to travel and he can travel only when the situation has been stabilized.

15. The medical certificate dated 24.11.2019 does not mention that Shravan Gupta was suffering from aforesaid diseases. Further he left the country within two days of this certificate which advised him rest at home for 6 days. Shravan Gupta has not joined investigation despite repeated summons issued to him. Thus under these facts and circumstances the letter dated 08.07.2020 of Dr. Sandeep Bolia cannot be relied upon.

16. Further, it is also noted that the Enforcement Directorate has seized some documents in the search conducted at the places of Shravan Gupta and found that Shravan Gupta and his family has applied for citizenship of the Common Wealth of Dominica. As per Enforcement Directorate Shravan Gupta is evading the investigation and his presence cannot be secured without issuance of NBW.

17. Thus in view of the aforesaid facts and circumstances, I consider it fit to issue open ended non bailable warrants against accused Shravan Gupta. Let open ended non bailable warrants be issued against the accused Shravan Gupta.



18. Copy of this order be sent to ED through whats app/email.

The hard copy of the FIR shall be placed on record as and when the regular functioning of the courts at Rouse Avenue Complex, New Delhi is resumed. A copy of this order be also uploaded on the official website of Delhi District Court.



(Arvind Kumar)
Special Judge (PC Act) CBI-10
Rouse Avenue Courts
New Delhi/29.08.2020