

A-5 was present in the morning session, in the afternoon session he is absent, E.P. filed, heard and allowed.

COMMON ORDER ON THE APPLICATION OF ACCUSED NO.6 UNDER SECTION 451 AND 457 OF Cr.PC AND THE BAIL APPLICATION OF ACCUSED NO.5 UNDER SECTION 437 and 437(5) OF Cr.PC.

The PSI of Sanjay Nagar Police Station submitted the charge sheet to the court against accused No.1 to 5 for their alleged commission of offences punishable under section 406, 408, 409, 418, 420, 120-B R/w section 34 of IPC. As can be seen from column No.17 of the charge sheet the accused No.1 had opened an office in the name and style N.K & Associates and started his profession of Chartered Accountant. Although his registration of firm was invalid he was representing the customers that he was a Chartered Accountant. The accused No.1 in order to evade taxes started a firm in the name and style of Terminus Consulting Private Limited and made accused No.3 and 4 as its Directors. The accused No.2 is the none other than the close friend and associate of accused No.1. The accused No.1 was a Chartered Accountant of Daechang Seat Automative Private Limited and whereas the accused No.2 was the Accounts Manager of the said Pvt Ltd. The accused No.1 to 5 in furtherance of their common

intention to gain wrongfully caused loss to the said Pvt Ltd to the tune of Rs.9,62,80,189/-.

2. Subsequent to filing of the charge sheet the accused No.6 Bharath C.H. was apprehended for the reason that the accused No.1 had transferred Rs.2,35,58,000/- to the account of accused No.6. The investigation is still in progress against accused No.6.

3. At the time of interrogation the accused No.6 Bharath C.H. allegedly stated before the IO that he has repaid some amount and utilized the rest of the amount for his own benefit. According to the investigation officer the accused No.1 Nikhil Kumar Singh allegedly transferred Rs.2,35,58,000/- to the account of accused No.6 Bharath C.H. Learned counsel for the accused No.6 drawn the attention of the court towards to the discovery statement of accused No.1 Nikhil Kumar Singh which is found at Page No.981 of the charge sheet. In Page No.983 accused No.1 allegedly stated before the IO as follows.

ನಾನು ನನ್ನ ಸ್ನೇಹಿತರ ಖಾತೆಗಳಿಗೆ ಕಳುಹಿಸಿದ್ದ ಹಣವನ್ನು ಅವರುಗಳಿಂದ

ಬ್ಯಾಂಕ್ ವಿತ್ ಡ್ರಾ ಮಾಡಿಸಿಕೊಂಡು ನಾನೇ ವಾಪಸ್ ಪಡೆದುಕೊಂಡಿರುತ್ತೇನೆ.

ನನ್ನ ಖಾತೆಗೆ ವರ್ಗಾವಣೆ ಮಾಡಿಕೊಂಡಿದ್ದ ಹಣದಲ್ಲಿ ನನ್ನ ಸ್ನೇಹಿತ ಭರತ್

ರವರಿಗೆ ಸಾಲವಾಗಿ ಅವರ ಹೆಚ್.ಪಿ.ಗ್ರೂಪ್ ಕಂಪನಿಗೆ ವಿವಿಧ ದಿನಾಂಕಗಳಂದು ಸುಮಾರು 90 ಲಕ್ಷ ಹಣವನ್ನು ವರ್ಗಾವಣೆ ಮಾಡಿರುತ್ತೇನೆ.

ಭರತ್ ರವರ ತಂದೆ ಶ್ರೀ ಹರೀಶ್ ರವರಿಗೆ ಸಾಲವಾಗಿ 25 ಲಕ್ಷ ರೂಗಳನ್ನು ನೀಡಿದ್ದು ಈ ಹಣವನ್ನು ಅವರ ಶ್ರೀ ದುರ್ಗ ಗ್ಯಾಸ್ ಏಜನ್ಸಿಯ ಅಕೌಂಟ್ ಗೆ ವರ್ಗಾವಣೆ ಮಾಡಿರುತ್ತೇನೆ.

4. In this background the accused No.6 sought to defreeze the following accounts.

- i) Current Account bearing No.10087158348 maintained in IDFC First Bank, Sahakar Nagar Branch,
- ii) Account bearing No.9108664566 maintained in Kotak Mahindra Bank, Vijaynagar Branch.
- iii) Current Account bearing No.371600000108 maintained in Indian Overseas Bank, Yelanka Branch.
- iv) Account bearing No.371601000003683 maintained in Indian Overseas Bank, Yelanka Branch.
- v) Account bearing No.777701556897 maintained in ICICI Bank, New Bell Road Branch.

5. Learned Sr.APP to his objections annexed the report of the IO stating that out of Rs.12,23,80,189/- accused No.1 Nikhil Kumar Singh transferred Rs.2,35,58,000/- to the account of accused No.6 Bharath C.H. bearing No.10087158348 of IDFC First Bank, if the account of accused No.6 is defreezed he may withdraw the entire amount and he may cause hurdles to the investigation by misusing the said amount etc.

6. In his application accused No.6 Bharath C.H. admitted that he has received Rs.1,15,00,000/- from the accused No.1 as a loan. At the time of hearing the application, the advocate for accused submitted that a sum of Rs.90 lakhs was transferred to the account of accused No.6 and remaining Rs.25 lakhs was transferred to the account of his father Harish Kumar C. He further submitted that the accused No.6 is a young entrepreneur he has to make payments for his employees, due to debit freezure of the accounts his entire business has been stalled, therefore, his application may be allowed. The court at the time of hearing on application asked the advocate for accused No.6 to furnish bank guarantee to which he stated that due to debit freezing of his account, accused No.6 is unable to get the bank guarantee and if reasonable time is given he may furnish bank guarantee.

7. Although, the investigation officer stating that a sum of Rs.2,35,00,000/- transferred to the account of the accused No.6 he has not placed any reliable material to prove this fact. On the

other hand the accused No.6 admitted that he has availed a loan of Rs.1,15,00,000/- from the accused No.1. In fact, there is no direct allegations against the accused No.6 with regard to his active participation in the crime. Since the bank accounts of accused No.6 have been debit freezed, he may not be able to make payments to his employees, customers etc. By considering the above facts and circumstances the court allows the application of accused No.6 on the following conditions.

- i) The accused No.6 shall provide a security for a sum of Rs.2,35,58,000/- and shall furnish indemnity bond for the like sum.
- ii) The accused No.6 shall retain at least a minimum balance of Rs.1,15,00,000/- in his account/s.
- iii) He shall submit the account statement for the period of previous two years commencing from the date of debit freeze within 15 days from the date of this order.
- iv) If the accused No.6 wish to withdraw Rs.1,15,00,000/- from his account he shall furnish a bank guarantee for the said sum.

8. In so far as the bail application of accused No.5 is concerned the accused No.1 to 4 and 6 have already been

enlarged on bail. The accused No.5 also granted with interim bail. There is no allegations against him that he is tampering with the prosecution evidence and threatening the prosecution witness. Therefore, absolutely there is no reason to reject his bail application. The accused No.5 is the citizen of South Korea, presently residing at Hiranandani Villas, Devanahalli, Bengaluru. He wish to his VISA extended and therefore he is in need of his Passport. His wife Smt.Lee Yeonhee has filed her affidavit in support of the application of her husband along with a copy of her Passport bearing No.M68612824 and also account particulars of HANA Bank. It is reported that the accused No.5 along with his wife and children are residing in Devanahalli and he has admitted his children to the school. Until conclusion of the trials the accused No.5 shall be retaining in India and therefore, he may be given with a liberty to get his VISA renewed. For the foregoing reasons the court proceed to pass the following.

ORDER

The bail application of accused No.5 is hereby allowed. He be released on bail on executing a Personal Bond for Rs.5 lakhs and shall furnish two sureties for the like sum on the following.

CONDITIONS

1. He shall not threaten the prosecution witness and shall not tamper with the evidence.

2. He shall declare his residential address, names and such other material particulars of his family members by way of affidavit.

3. He shall not leave Bengaluru City until further order.

4. He is at liberty to get his VISA renewed so that he can continue his stay in India/Bengaluru.

To furnish Indemnity Bond, surety etc. Call on: 25.07.2023.

(Dictated to the stenographer, transcribed by him on computer, corrected, signed and pronounced by me in the open court on this the 24th day of July, 2023).

III ACMM, Bengaluru.