

Raghubir Singh
Special Judge (PC Act) (CBI)-18,
Rouse Avenue District Courts,
New Delhi

IA No. 31/2023
ECIR No: KLZO/41/2020
U/S : 3 & 4 of PMLA
Directorate of Enforcement v. Mohd. Enamul Haque

09.06.2023

Order

1. This adjudication is towards the disposal of the '*default bail*' u/s 167 (2) R/w Sec. 439 Cr. P.C filed on behalf of accused/applicant **Mohd. Enamul Haque**, filed as on 29.04.2023. In the application in hand, it is prayed that accused/applicant *be granted default/regular bail*, in the present case titled as *Directorate of Enforcement Vs. Mohd. Enamul Haque & Ors.* Reply to this bail application was filed as on 06.06.2023 and the arguments were also addressed on the very date.

2. In the application in hand it is averred that applicant is permanent resident of Kolkata. He is a law abiding 44 year old businessman with clean antecedents. However, now he has been embroiled in various *rigorous litigations* by different agencies. It is also averred that the regular bail application of the applicant/accused stood dismissed vide order dated 30.05.2022 and that the bail application of the accused/applicant on merits is pending adjudication before the Hon'ble High Court of Delhi. As per further averments, the application in hand has been filed as the Investigating Agency has failed to complete the investigation within the stipulated time. As per narration appearing in para 9 of the application in

hand, the Apex Court decision in ***Ritu Chhabaria Vs. Union of India & Ors.*** has been made the basis for filing the present application.

3. As per the reply of the Prosecution, the application in hand is devoid of merits and liable to be dismissed being in *abuse* of the process of law. The role of the accused/applicant is deciphered in detail, he being the *kingpin* of the offence in question and in the end it is prayed that application be dismissed.

4. File perused. Ld. counsels for the parties heard.

5. Though the bail application is titled to be ‘default bail application’ yet in the prayer thereof it is shown to be default bail as well as regular bail application. However, as it is an admitted fact that the regular bail application of the accused/applicant is already pending there before the Hon’ble High Court of Delhi, it would not be appropriate to dwell upon in that context. Rather, it was incumbent upon the applicant himself not to simultaneously move the trial court (i.e. this Court) as well as the High Court for seeking regular bail.

6. The present ECIR u/s 3/4 PMLA 2002 was registered as on 25.09.2020 on the basis of the FIR in CBI Case bearing RC No. 0102020A0019 dated 21.09.2020 for the offences punishable u/s 120-B IPC R/w Sec. 7,11 and 12 of the PC Act 1988 in connection with alleged ‘cattle smuggling’ through Indo Bangladesh Border. The accused/applicant was arrested in connection with the ED case as on 18.02.2022 and the Complaint qua him (including 05 others) was filed within the stipulated period i.e. as on 16.04.2022. Thereafter, even his regular bail filed as on

06.05.2022 stood disposed of as dismissed vide detailed order dated 30.05.2022. It makes the things clear that the Complaint/Final Report having been filed within the stipulated period, there was no occasion for him for moving any application for default bail. Accordingly, the applicant/accused had moved regular bail application as above which was duly taken care of vide order dated 30.05.2022.

7. Now, after more than 15 months reckoned from the date of arrest, the accused/applicant has moved for seeking ‘*default bail*’ and as pointed out here-in-above, as per para 9 of the application in hand, the decision of the Apex Court in ***Ritu Chhabaria Vs. Union of India*** has been made the basis thereof. However, the latest position in respect of *Ritu Chhabaria*’s case; as on the date is that ‘*the order shall not preclude any Trial Court or, as the case may be, High Court from considering an application for grant of default bail u/s 167 Cr. P.C independent of and without relying on the judgment dated 26 April 2023 in Writ Petition (Criminal) No. 60 of 2023*’.

8. Thus, the very basis of the application in hand is rooted out as it was filed on the strength of Ritu Chhabaria case which has now been *stayed* by Hon’ble the Apex Court. Furthermore, even otherwise also, there are no justifications at all in moving such like application at such a belated stage (i.e. more than after 15 months instead of; within 60 days) and there are a catena of judgments; right from Tilok Chand Moti Chand Vs. H.B. Munshi AIR 1970 SC 898 wherein it has been categorically held that the Courts will aid only those who are vigilant and who do not sleep over their rights. The inordinate and unjust delays/laches cannot be construed in favour of the party at fault. It would also not be out of context to mention that in the present case, besides the main Complaint (filed on 16.04.2022) at least 03

more Supplementary Complaints have been filed. These Supplementary Complaints are Supplementary not in the sense that some additional evidence/accusation has been brought on record against the applicant herein (shown arrayed as accused by way of main Complaint), but in the sense of bringing more persons as accused on the basis of the trail of the POC allegedly laundered. Thus, nothing new or additional has been brought on record in respect of the applicant herein since after the filing of the Complaint as on 16.04.2022. Thereafter the cognizance of the offence in question was taken vide order dated 19.04.2022. Thus, he can, in no way, take a pretext of incomplete investigation.

9. With these observations, the application in hand is being disposed of as dismissed.

Announced in open Court
On 09th June 2023

(Raghubir Singh)
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