

**IN THE COURT OF SH. SANJEEV AGGARWAL,
SPECIAL JUDGE (PC ACT) (CBI)-02, ROUSE AVENUE
DISTRICT COURT, NEW DELHI**

**CBI Vs. Abhishek Tiwari & Ors.
FIR No. RC2182021A0005
PS CBI/AC-III/New Delhi
CNR No. DLCT11-000488-2021**

31.01.2022

ORDER

1. **Vide this common order, I shall dispose off two separate regular bail application(s) u/S. 439 CrPC moved on behalf of applicant(s)/accused persons Anand Dilip Daga (A-2) and Vaibhav Gajendra Tumane (A-3) *(the accused persons are hereinafter, being referred to by their respective status as mentioned in the charge-sheet).***

2. Brief facts of the case as per the charge-sheet are as follows :-

a) **This Regular Case RC2182021A0005 was registered by the CBI on 31.08.2021 on the basis of a complaint submitted by Shri Kiran S., Supdt. of Police, CBI, AC-V, New Delhi against (i) Shri Abhishek Tiwari, Sub Inspector, CBI, AC-V, New Delhi, (ii) Shri Anand Dilip Daga, Advocate, R/o -97/1, Civil Lines, Temple Road, Nagpur and (iii) Unknown others, under section 120-B, 409 of Indian Penal Code and section 7 and 8 of Prevention of Corruption Act, 1988 (as amended in 2018).**

b) **It was alleged in the FIR that a PE 2232021A0001 was registered on 06.04.2021 in compliance of the order dated 05.04.2021 of the Hon'ble High Court of**

Mumbai. For conducting the enquiry, a team of officers led by the Enquiry Officer Shri R S Gunjiyal, Dy. SP, CBI alongwith Shri Abhishek Tiwari (A-1), Sub Inspector, CBI left for Mumbai on 06.04.2021. During the enquiry, the team members examined witnesses including Shri Anil Deshmukh, the then Home Minister, Maharashtra, who was examined on 14.04.2021.

c) It was further alleged that consequent upon the enquiry, the Enquiry Officer submitted his report dated 16.04.2021. Shri Abhishek Tiwari (A-1) had assisted the Enquiry Officer in the preparation of the said report and had been in possession of case sensitive documents. Pursuant to the comments and opinion of senior officers and after approval by the competent authority, RC 2232021A0003 was registered by the CBI on 21.04.2021 u/s 7 of PC Act, 1988 (as amended in 2018) and 120-B of IPC against Sh. Anil Deshmukh, the then Home Minister of Maharashtra & unknown others, the investigation of which is in progress.

d) It was further alleged that the case sensitive and confidential documents pertaining to the enquiry and investigation were disclosed to unauthorized person. Shri Abhishek Tiwari (A-1) had come in contact with Advocate Shri Anand Dilip Daga (A-2), Lawyer of Shri Anil Deshmukh, during the course of enquiry and had been in regular contact with him since then.

e) It was further alleged that Shri Abhishek Tiwari (A-1) had visited Pune in connection with investigation of

the said RC, where Advocate Shri Anand Dilip Daga (A-2), met him and handed over to him an iPhone 12 Pro as illegal gratification in lieu of passing details regarding the said enquiry and investigation, thereby causing improper performance of public duty. He had been obtaining illegal gratification from Shri Anand Dilip Daga (A-2) at regular interval.

f) It was further alleged that Shri Abhishek Tiwari (A-1) shared copies of documents like memorandum of proceedings, sealing-unsealing memorandum, statements, seizure memos etc., related to the investigation of the case with Shri Anand Dilip Daga (A-2) through WhatsApp on many occasions and thus, Shri Abhishek Tiwari (A-1) who was entrusted with the possession of case sensitive documents as part of the enquiry and investigation in his capacity as a Sub-Inspector, has committed criminal breach of trust in respect of said property. He entered into criminal conspiracy with Shri Anand Dilip Dagar (A-2) and Unknown others and disclosed case sensitive and confidential documents to unauthorized persons, for the purpose of subverting investigation of RC2232021A0003, in lieu of undue advantage and illegal gratification to himself.

g) Investigation has established that Shri Abhishek Tiwari was associated with the PE2232021A0001 and RC2232021A0003 of AC-V Branch of CBI and was privy to the case sensitive documents and strategy of the case.

h) Investigation has established that Shri Abhishek

Tiwari (A-1) in conspiracy with Shri Anand Dilip Daga (A-2), advocate of Shri Anil Deshmukh, leaked the case sensitive and secret documents to Shri Anand Dilip Daga (A-2) in order to subvert the investigation of RC2232021A0003 of AC-V Branch of CBI.

i) During investigation, it is established that a Preliminary Enquiry Registration Report vide PE2232021A0001 was registered by AC-V Branch, CBI on 06.04.2021 against Shri Anil Deshmukh, the then Home Minister, Govt. of Maharashtra & Unknown others for enquiry, in compliance of the order dated 05.04.2021 passed by the Hon'ble High Court of Maharashtra in PIL No. 06/2021 and batch of connected PILs in the matter of Shri Param Bir Singh Vs. the State of Maharashtra & others, whereby, the Hon'ble High Court had directed the CBI to initiate a Preliminary Enquiry into the complaint of Dr. Jaishri Laxmanrao Patil (Advocate). The Enquiry of the PE was entrusted to Shri R. S. Gunjiyal, Dy. SP, CBI.

j) It is also mentioned in the charge sheet that accused Abhishek Tiwari along with other senior officers, CBI visited Mumbai and camped at DRDO Guest House, Santa Cruz, Mumbai along with the Enquiry Officer Sh. R. S. Gunjiyal, Dy. SP during the period 06.04.2021 to 15.04.2021 and assisted in the enquiry and also during the recording of the statement of the witnesses and preparation of Enquiry Report after return to Delhi with him on 15.04.2021. Thereafter, Sh. R. S. Gunjiyal had submitted the Enquiry Report (i.e. Final Report-I) in the

PE on 16.04.2021. Therefore Abhishek Tiwari had access to complete documents related to PE2232021A0001 of AC-V Branch, CBI.

k) The investigation has also revealed that Anand Dilip Daga had accompanied Shri Anil Deshmukh on 14.04.2021 during his examination by CBI at DRDO Guest House Santa Cruz, Mumbai in connection with the above PE2232021A0001.

l) It is also mentioned that the above PE2232021A0001 culminated into registration of a regular case vide RC2232021A0003 by AC-V Branch of the CBI on 21.04.2021 u/s. 120-B of IPC and Section 7 of PC Act, 1988 (as amended in 2018) against Shri Anil Deshmukh, the then Home Minister of Maharashtra and unknown others.

m) Thereafter, a number of CBI officials including the investigating officer Sh. Mukesh Kumar, Dy, SP and Abhishek Tiwari, Sub Inspector (A-1) etc. undertook official tours and camped outstation from time to time. The said Abhishek Tiwari was also part of the team planning the searches along with the IO.

n) It is also mentioned in the charge sheet that (A-2) Anand Dilip Daga was one of the lawyers for petitioner Sh. Anil Deshmukh before the Hon'ble Supreme Court and also before the Hon'ble High Court. It is also revealed that (A-1) and (A-2) met at Delhi, Mumbai and Pune physically and had been in regular touch through

whatsapp calls / messages and SMS after 14.04.2021 and from the search of (A-1) on 01.09.2021, certain electronic devises including his mobile phones, laptop and pen drives were seized. One apple i-Phone was also seized on 01.09.2021.

o) Anand Dilip Daga (A-2) was arrested on 01.09.2021 and his mobile phone was also seized. The imaging of mobile phone was done and data was extracted and the files related to PE2232021A0001 and RC2232021A0003 of AC-V branch of CBI were retrieved from the mobile phone of (A-2). The dates of creation of files in the phone of (A-2) indicates the dates of leakage of corresponding documents. The hash value of the above files were also analysed during investigation and it matches with the corresponding hash value of the documents recovered from the Samsung mobile phone and from the pendrive of Abhishek Tiwari (A-1), details of which have been mentioned in the charge sheet.

p) It is also mentioned that the statement of Sh. Subodh Kumar Jaiswal, the then Director General, CISF was recorded telephonically by Sh. Mukesh Kumar, DySP(IO) on 06.05.2021 and was saved in his external hard disk. No other member of the investigation team, except Sh. Mukesh Kumar, DySP was aware of this fact. The said statement was found saved in the pen driver of (A-1) on 01.08.2021 and also in the mobile phones of (A-2) on 05.08.2021, which he had unauthorisedly accessed and leaked the said documents to Anand Dilip Daga (A-2) and the contents of statement of Sh. Subodh Kumar Jaiswal

u/S. 161 CrPC dated 06.05.2021 in RC2232021A0003, extracted from the phone of (A-2) and '161 CrPC statement' extracted from the phone of (A-1) is precisely matching, as the hash value of both of them is the same.

q) The investigations also revealed that (A-1) who was sent to Pune on 26.07.2021 to coordinate searches there while in Pune met (A-2), who visited Pune through vehicle no. MH 31 ER 7000, as Abhishek Tiwari stayed at HAL Guest House, Pimpri, Pune and Anand Dilip Daga met him there, which was confirmed by vehicle entry register maintained at the gate of HAL Guest House.

r) The investigations also revealed that (A-2) got an I-Phone 12 Pro purchased through one Sh. Satyajeet Wayal on 27.07.2021 for accused Abhishek Tiwari, which was purchased for Rs. 95,000/-, which is corroborated by whatsapp chats between (A-2) and Sh. Satyajeet Wayal, which was handed over to (A-1) on 07.08.2021 and same was seized during the search of office cabin of (A-1) on 01.09.2021.

s) Thereafter, it was revealed that the illegally accessed / obtained Enquiry Report of PE2232021A0001 was already available with (A-2), which he in conspiracy with Vaibhav Gajendra Tumane (A-3), Social Media Handler of Sh. Anil Deshmukh got circulated / posted with a note on the background of the Preliminary Enquiry to a number of addressees, as a part of their larger conspiracy to subvert the investigation of RC2232021A0003 for which (A-3) roped in services of Sh. Rahul Chakranarayan

(a care taker at the residence of Sh. Anil Deshmukh) and other persons. Therefore, it is stated that all the accused persons were acting in conspiracy with each other.

3. The application for bail has been filed by the applicant/accused Anand Dilip Daga (A-2) on the ground that the petitioner is a young advocate who was approached by his childhood friend one Rishi Deshmukh to help his father in a legal matter and thereafter, he started working on a legal matter pertaining to one Sh. Anil Deshmukh, father of Rishi Deshmukh in Mumbai. It is stated that the petitioner was arrested in this case and brought from Mumbai to Delhi on 02.09.2021. He was also remanded to police custody till 04.09.2021 and thereafter till 06.09.2021.

4. It is further stated that on 29.11.2021, the investigating authorities filed the charge-sheet against the three accused persons including the present petitioner for offences under Section 120 B r/w 201/379/409/411 IPC and 7/8 of the Prevention of Corruption Act r/w Section 43/66/66 B of the IT Act. It is stated that there is no iota of evidence against the petitioner as per the said charge-sheet.

5. Bail has been sought by the applicant/A-2 on the following main grounds :-

1. The investigations are complete and no useful purpose would be served by keeping him behind the bars.
2. Trial is yet to commence and is likely to take a long time.
3. Gravity of offences alleged per se is not a ground to deny bail.
4. Requirement of further investigations is not a ground to deny bail when the presence of the accused can be secured otherwise.

5. Mere allegations of influencing witnesses or tampering with evidence are not grounds to deny bail.
6. Petitioner passes the requisite 'triple test' for bail.

6. Further, it is also stated that the accused has a family consisting of his wife, a six years old son and a four years old daughter. It is orally submitted by Ld. Counsel for the applicant/A-2 that he is in custody since 02.09.2021. It is further stated that he had also preferred an previous bail application U/s 439 Cr. P. C. before the Ld. Predecessor of this court as also before the Hon'ble High Court, which were both dismissed.

7. It is also stated that the Hon'ble High Court had primarily emphasized on the fact that the investigations were at preliminary stage, while declining the bail application of the applicant/A-2 in terms of the order dated 12.10.2021. It is orally stated that there are material change of circumstances after the dismissal of the bail application by the Hon'ble High Court, as the charge-sheet has already been filed and the accused is in JC for almost five months. It is, therefore, prayed that the applicant/A-2 be released on bail.

8. Regarding the bail application of applicant/A-3 Vaibhav Gajendra Tumane, it is stated that he was served with the notice U/s 41 A Cr. P. C. directing him to appear before the CBI Officials on 08.11.2021 and pursuant thereto, he appeared before the CBI officials at CGO Complex, New Delhi on 08.11.2021 and participated in the investigation from 08.11.2021 till 13.11.2021. The applicant/A-3 was arrested on 13.11.2021 and was remanded to police custody for three days.

9. It is stated that the applicant/A-3 is an employee of Mr. Anil

Deshmukh and handling his media/social media desk and no role has been played by him in procurement of the case sensitive confidential documents and he is not involved at all in the present case. It is stated that the applicant/A-3 was arrested on 13.11.2021 and remanded to police custody till 17.11.2021 and since then he is in JC. He is a permanent resident of Nagpur, Maharashtra. The investigations qua him are complete. The applicant/A-3 is having clean antecedents. Therefore, it is prayed that he be released on bail.

10. CBI has filed separate replies to the bail applications of A-2 Anand Dilip Daga and A-3 Vaibhav Gajendra Tumane.

11. Regarding the bail application of applicant/A-2 Anand Dilip Daga, it is stated that the accused was communicated with the grounds of arrest and the same were also informed to his father. It is stated that Hon'ble High Court while rejecting the bail application of the applicant/A-2, vide order dated 12.10.2021, had observed as under :-

"It is settled law the Court has to keep in mind not only the nature of accusations but also if there exists reasonable apprehension of the evidence being tampered with, the bail may be refused."

12. It is stated that the applicant/A-2 admits that he was an Advocate of Anil Deshmukh, the Ex. Home Minister of Maharashtra. It is further stated that the investigation has already established the role played by the accused/A-2 in the illegal procurement of case sensitive documents of PE2232021A0001 and RC2232021A0003 in lieu of providing illegal gratification to another accused Abhishek Tiwari. It is further stated that further investigations are going on in this case and if the accused is enlarged on bail, there is every likelihood that he may influence the witnesses. It is further stated that the accused had given his email id, but he did not come up with the truth and he did not reveal the

truth about the other important facts of the case, which needs to be taken to logical conclusion during further investigation.

13. It is further stated that the applicant/A-2 Anand Dilip Daga had met accused Abhishek Tiwari who was stationed at HAL Guest House in Pune on 26.07.2021, a night before search was conducted in case against Sh. Anil Deshmukh in RC2232021A0003 of AC-V Branch of CBI. It is stated that accused Abhishek Tiwari was sent to Pune by AC-V Branch to coordinate the searches. Further, there are Whatsapp messages also, as mentioned in the charge-sheet, which proves that the searches details were leaked to the accused/applicant before the conduct of search.

14. It is further stated that since the applicant/A-2 was actively involved in procurement of documents and scuttling of investigation of RC2232021A0003 of AC-V Branch of CBI, his release at this time may adversely affect the further investigation. It is further stated that the trial has already commenced and release of the applicant/A-2 at this stage will hamper trial. It is stated that the accused is an experienced lawyer having knowledge of the laws and he was well aware that the leakage of case sensitive data/documents was illegal and the said is to scuttle the investigation of case RC2232021A0003. Therefore, it is stated that the application has no merits and be dismissed accordingly.

15. With regard to the bail application of A-3 Vaibhav Gajendra Tumane, it is stated in the reply of CBI that his role is clearly mentioned in the charge-sheet. It is stated that searches were conducted at the residences of A-3 Vaibhav Gajendra Tumane on 11.09.2021 and 19.09.2021 U/s 165 Cr. P. C. and he was issued notice U/s 160 Cr. P. C. to join investigation, but he did not join the investigation. From the investigation conducted, it was clear that he had played a major role in RC no. RC2182021A0005 and, therefore, he was served with notice U/s

41 A of Cr. P. C. but he still did not join investigation and evaded the process of law. He joined investigation on 08.11.2021, but he did not cooperate in the same. Though he produced his Honor mobile phone but after formatting the same with intention to destroy the digital evidence.

16. It is stated that the applicant/A-3 had played a crucial role in commission of offence, qua which charge-sheet has already been filed against him and other accused persons. It is stated that the accused has a history of evading the process of law and in view of the severity of punishment, there is every likelihood that he may evade the process of law if released on bail and he may also tamper with evidence and influence the witnesses. Therefore, it is stated that the application is liable to be dismissed.

17. It is further stated that this Court, vide order dated 22.12.2021, had also directed CBI as under :-

"discretely and thoroughly further investigate the role of Sh. Anil Deshmukh (Ex Home Minister Maharashtra) in present matter or RC with utmost alacrity, in a time bound manner".

18. In support of his contentions, Ld. Counsel for the applicant/accused Anand Dilip Daga has relied upon the following judgments in the bail application itself :-

1. ***Sanjay Chandra vs. CBI (2012) 1 SCC 14,***
2. ***P. Chidambaram vs. Enforcement Directorate (2020) 13 SCC 791***
3. ***P. Chidambaram vs. CBI (2020) 13 SCC 337***
4. ***Judgment dated 13.12.2021 of Hon'ble Supreme Court in SLP (Crl.) No. 5703/2021 titled Bharat Choudhary vs. Union of India.***
5. ***Gurbaksh Singh Sibbia vs. State of Punjab (1980) 2 SCC 565.***

6. ***Gurcharan & Ors. vs. State (AIR 1978 SC 179)***
7. ***Babu Singh vs. State of UP (1978) 1 SCC 179.***
8. ***Judgment of Hon'ble High Court of Delhi in Ashok Sagar vs. State (NCT of Delhi) 2018 VI AD (Delhi) 21.***
9. ***Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 469.***
10. ***Judgment dated 06.05.2020 in Crl .M. C. No. 1468/2020 titled State of NCT of Delhi vs. Sanjeev Chawla.***
11. ***Judgment dated 29.05.2020 of Hon'ble High Court of Delhi in Bail Application no. 945/2020 titled Firoz Khan vs. State (NCT of Delhi).***
12. ***State vs. Jagjit Singh (AIR 1962 SC 253).***
13. ***Gurcharan Singh vs. State (Delhi Admn.) (1978 1 SCC 118).***
14. ***Prahlad Singh Bhati vs. State (NCT of Delhi) (2001) 4 SCC 280.***
15. ***Puran Vs. Rambilas (2001) 6 SCC 338.***
16. ***Ram Govind Upadhyay v. Sudarshan Singh (202) 3 SCC 598.***
17. ***Judgment of Hon'ble Supreme Court in Mahender Chawla vs. Union of India (2019) 14 SCC 615.***
18. ***Sukh Ram vs. State (CBI) (1996) 64 DLT 633.***

19. In support of his contentions, Ld. Counsel for the applicant/accused Vaibhav Gajendra Tumane has relied upon the following judgments :-

1. ***Order dated 05.04.2021 passed by the Hon'ble Bombay High Court in PIL no. 6/2021.***
2. ***Copy of the order dated 08.04.2021 passed by the Hon'ble Supreme Court in SLP (Crl.) Diary No.9414/2021.***
3. ***Arnesh Kmar vs. State of Bihar (2014) 8 SCC 273***
4. ***Order dated 05.02.2021 passed by the Hon'ble Supreme Court in W. P. (Crl.) 62/2021 Munwar Vs. State of Madhya***

Pradesh.

**5. P. Chidambaram vs. CBI (2020)
13SCC337**

20. I have gone through the rival contentions of the parties.

21. While dismissing the bail applications of A-1 and A-2, in terms of order dated 12.10.2021, the Hon'ble High Court has observed as under :-

"7. The recovered documents and its implication thereof is stated in the case diary, a copy of which has been handed over to this Court.

8. It is alleged both the petitioners held various meetings at Delhi, Pune and Mumbai and were in regular touch and on the intervening night of 26-27th July, 2021 they met each other at HAL Guest House, Pune. It is alleged there are enough call detail records which show common location at the same time of both the accused persons.

9. The investigation is still at its initial stage and it is alleged the petitioners shall influence the investigation and tamper with the evidence and shall stall the proceedings, if they allowed to be released on bail at this stage.

10. The learned counsel for the CBI submitted as follows :-

“(a) The data collected so far shows that even though the Police Remand period is over, both the accused have information which the CBI is trying to collect by confronting them with the facts, as are discovered on regular basis during the course of investigation. In this nature of investigation, direct evidence is seldom available and therefore, at least for a period of 90 days from arrest, CBI should be given a fair opportunity to file its charge sheet which would show the actual gravity of offence. If CBI fails in filing Charge Sheet, S. 167 will automatically come in;

(b) The CBI believes that as the accused are being confronted with more and more data, their chances of giving out truth is extremely high and therefore, their release at this stage will be counter-productive to the investigation.

”

11. It is settled law the Court has to keep in mind not only the nature of accusations but also if there exist reasonable apprehension of the evidence being tampered with, then the bail may be refused.

12. The allegation in the present FIR is rather based on tempering of the evidence; thus considering the initial stage of investigation, I am not inclined to grant bail to the petitioners herein, at this stage.

13. The petition(s) stands dismissed. Pending application(s), if any, also stand disposed off. "

22. Before that the Ld. Predecessor of this Court was pleased to dismiss the bail application of accused Anand Dilip Daga vide order dated 08.09.2021 while making the following observations.

"Having considered the submissions made by the Ld. Counsel for the applicant/accused and Ld. Special Public Prosecutor for CBI and after perusing the record, it is evident that investigation is still inconclusive, recoveries connect the applicant/accused with the alleged offence and given the fact that the applicant/accused himself being a lawyer and being well-acquainted with the legal process and facing allegations of serious nature, it cannot be ruled out that he may may not try to scuttle or influence the investigation which is not confined to a particular geographical area. Therefore, considering the entire gamut of facts and circumstances, the applicant/accused does not deserve to be considered for bail, at this stage. The application is accordingly declined."

23. It has been held in the judgment titled ***P. Chidambaram Vs. Directorate of Enforcement (Criminal Appeal No. 1831/2019, arising out of SLP (Criminal) No. 10493 of 2019)*** decided on 04.12.2019, by the Hon'ble Supreme Court in relevant paras as under :

21. Such consideration with regard to gravity of offence is a factor which is in addition to the triple test or the tripod test that would be normally applied in that regard what is also to be kept in perspective is that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case, since there is no such bar created in the relevant enactment passed by the legislature nor does the Bail Jurisprudence provides so. Therefore, the underlining conclusion is that irrespective of the nature and gravity of charge. The precedent of another case alone will not be the basis for either grant or refusal of bail though it may have bearing on principle. But ultimately the consideration will have to be on case to case basis on the facts involved therein and securing the presence of accused to stand trial.

In para 15 of the said judgment, it was held as under :

15.“The jurisdiction to grant bail has to be exercised on the basis of the well-settled principles having regard to the facts and circumstances of each case. The following factors are to be taken into consideration while considering an application for bail:- (i) the nature of accusation and the severity of the punishment in the case of conviction and the nature of materials relied upon by the prosecution; (ii) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses; (iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence; (iv) character behaviour and standing of the accused and the circumstances which are peculiar to the accused; (v) larger interest of the public or the State and similar other considerations (vidh Prahlad Singh Bhati v. NCT, Delhi and another (2001) 4 SCC 280. There is no hard and fast rule regarding grant or refusal to grant bail. Each case has to be considered on the facts and circumstances of each case and on its own merits. The discretion of the

court has to be exercised judiciously and not in an arbitrary manner.”

24. It has been held in the following judgment of the Hon'ble Supreme Court titled **Prasanta Kumar Sarkar vs. Ashis Chatterjee** (2010) 14 SCC 496 as under :-

“9. ... It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are :

(i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;

(ii) nature and gravity of the accusations;

(iii) severity of the punishment in the event of conviction;

(iv) danger of the accused absconding or fleeing, if released on bail;

(v) character, behaviour, means, position and standing of the accused;

(vi) likelihood of the offence being repeated;

(vii) reasonable apprehension of the witnesses being influenced; and

(viii) danger, of course, of justice being thwarted by grant of bail. ”

25. Further, it has been held by the Hon'ble Supreme Court in the judgment of **Kalyan Chandra Sarkar vs. Rajesh Ranjan, (2005) 2 SCC 42** as under :-

"this Court also observed that though the accused has a right to make a successive application for grant of bail, the Court entertaining such subsequent bail applications has duty to consider the reasons and grounds on which the earlier bail applications were rejected and in such cases, the Court also has a duty to record what are the fresh grounds which persuaded it to take a view different from the one taken in the earlier application."

26. The order of the Ld. Predecessor dated 08.09.2021, reveals, that earlier bail application of A-2 was dismissed as it was held that investigations were still inconclusive.

27. The perusal of the order of the Hon'ble High Court dated 12.10.2021 reveals that the Hon'ble High Court was pleased to dismiss the Bail application(s) of A-1 and A-2 on the ground that the investigations were still at the initial stage, therefore, Hon'ble High Court declined to grant bail to A-1 and A-2 at that stage.

28. Therefore this subsequent/successive application moved by A-2 after the dismissal of his earlier bail application(s), on the ground mentioned above, is based upon materially different grounds, as charge-sheet in this case has already been filed after thorough investigations after a lapse of 90 days, whereafter the matter is now pending at the stage of inquiry/further investigations. Therefore, there are fresh material

grounds qua A-2 after dismissal of his earlier bail applications as elaborated above, as also the fact that A-2 is in judicial custody for almost five months.

29. With regard to A-3, this is his first bail application. However, considering the same factors as mentioned above that the charge-sheet has already been filed after thorough investigations, presently, the matter is pending at the stage of inquiry/further proceedings, as also, his long incarceration of almost five months.

Further, A-2 is stated to be an Advocate and A-3 is stated to be related to Media, therefore, both of them can be said to have roots in the society. Further, the allegations of the present case does not pertain to economic offences of huge magnitude, therefore, it cannot *perse* be said to be falling under the category of **grave offences**.

30. Further, in view of the above detailed discussion, without commenting upon nature and gravity of the accusations as stated in the charge-sheet filed by the investigating agency, lest it may prejudice the case of the prosecution/defence later on, it is a fit case, where the accused persons deserve to be admitted to bail, as a resultant, both the applicants i.e. **Anand Dilip Daga (A-2) and Vaibhav Gajendra Tumane (A-3)** are admitted to bail on their furnishing personal bonds in the sum of Rs.1,00,000/- each with one surety of the like amount each subject to the following terms and conditions :-

(1) The above applicants/accused persons will mark their attendance once every month, with the IO/HIO, for a period of six months either virtually or physically at the discretion of the IO/HIO.

(2) The above applicants/accused persons will fully cooperate/join further investigation, as and when

required by the investigating agency/IO/HIO.

(3) The above applicants/accused persons shall not leave the country without prior permission of the court.

(4) The above applicants/accused persons shall neither tamper with the evidence in any manner nor try to influence the witnesses.

In case of violation of any of the terms and conditions of the bail mentioned above, the CBI will be at liberty to move an application seeking cancellation of bail.

31. With these observations, the bail applications moved on behalf of accused **Anand Dilip Daga (A-2) and Vaibhav Gajendra Tumane (A-3)** stand disposed off as above.

Nothing expressed hereinabove shall have any bearing on the merits of the case.

**Announced in the open
Court on this 31st Day
of January, 2022.**

**(Sanjeev Aggarwal)
Special Judge (PC Act)(CBI)-02
Rouse Avenue District Court
New Delhi/31.01.2022**