SC No.09/19
CNR No.DLCT11-000977-2019
DoE Vs Surendra Kumar Jain & Ors.

18.03.2024

Present: Sh. Atul Tripathi, Ld. SPP for DoE/ED.

A-1 Surendra Kumar Jain and A-71 Pankaj Kumar.
A-2 Virendra Jain is absent.
Sh. Suresh Chand Sati, Ld. Counsel for A-1, A-2, A-9 to A-34 companies, A-45 to A-59 companies and A-71.

A-3 M/s Jagat Projects Ltd. is not traceable.

A-4 Sant Lal Aggarwal, Sh. Jeev Nath Jha, proposed AR of A-6 company M/s. Divine Infracon P. Ltd. and Ms. Chanchal Taneja, AR of A-7 M/s. Index Securities & Research P. Ltd.
Ms. Ankita Gaba and Ms. Ritu Jain, Ld. Counsels for A-4, A-6 and A-7.

A-5 Satish Kumar Pawa, with Ld. Counsels Sh. Sanjay Abbot and Ms. Sanjana Mishra.

A-8 Rajesh Kumar Aggarwal, with Ld. Counsels Sh. Nagesh Behl and Sh. Rajat Tayal.

None for A-35 M/s Tulika Securities (P) Ltd.

A-37 Misha Bharti and A-38 Shailesh Kumar, who is also AR of A-36 M/s Mishal Packers & Printers P. Ltd.
Sh. Navin Kumar and Sh. Sumit Singh, Ld. Counsels for A-36 to A-38.

A-39 Santosh Kumar Shah, through VC, in terms of orders dated 30.08.22 and 31.10.22 of this court.

Ms. Shweta Rawat, AR of A-40 M/S Desmond Vinimay P. Ltd., A-41 M/S Picadally Trade & Holding P. Ltd. and A-44 M/S Starlite Traders P. Ltd.
Sh. Aryan Arora, Ld. Counsels for A-39, A-40, A-41 and A-44.

None for A-42 M/S Vidhata Housing Pvt. Ltd. and A-43 M/S Diwakar Builders Pvt. Ltd. (their names struck off on the Website of Ministry of Corporate Affairs).

A-60 Ravinder Kumar Goel, A-62 Mukesh Sharma, A-63 Debasis Dixit, A-64 Prakash Hirawat, A-66 Anuj Garg and A-67 Kuldeep Chauhan through VC.

Sh. Aman Goyal, Ld. Counsel for A-60.

Proceedings against A-61 Swati Pawa stand abated.

A-65 Sanjay Kumar Grover, with Ld. Counsels Sh. Wasim Akram and Sh. Anish Kumar.

A-68 Vinod Kumar Gupta, through VC, in terms of orders dated 30.08.22 and 31.10.22 of this court.
Sh. Paritosh Sharma, Ld. Counsel for A-68.

A-69 Dhirender Kumar, with Proxy Counsel Sh. Vivek Kumar.

A-70 Bineet Kapoor, through VC, in terms of order dated 08.03.2022 and 31.10.2022, with Ld. Counsel Ms. Mahima Dayani.

A-74 Surender Kumar Bansal, with Ld. Counsels Sh. Kuldeep Gola and Sh. Siddharth Arora.

A-72 SSK Trading (P) Ltd. and A-73 Bansal Diamonds (P) Ltd. (stated to be under the process of liquidation).

A-76 Ajay Gupta for self as well as for A-75 Ajay Guptas Shree Nath Jewelers (P) Ltd., though A-76 proceeded PO vide order dated 29.10.2021, with counsel Sh. Kuldeep Gola, Ld. Counsel for A-76 and Sh. Daya Chand Gupta, father of A-76.

A-77 Bikash Singhi, with Ld. Counsel Sh. Rishab Kumar Thakur.

A-79 Amit Arora who is also AR of A-78 Payal Portfolio, with Ld. Counsel Sh. Sudhir Chahal.

In terms of letter/circular No. 1/RG/DHC/2023 dated 05.06.2023 issued by the Hon'ble High Court, Ms. Ritu Jain, Ld. Counsel for A-4, A-6 & A-7, Sh. Sanjay Abbot & Ms. Sanjana Mishra, Ld. Counsels for A-5, Sh. Naresh Kumar Behl, Ld. Counsel for A-8, Sh. Sumit Singh, Ld. Counsel for A-36 to A-38, Sh. Aryan Arora, Ld. Counsel for A-39 to A-41 & A-44, Sh. Aman Goyal, Ld. Counsel for A-60, Sh. Waseem Akram and Sh. Anish Kumar, Ld. Counsels for A-65, Ms. Mahima Dayani, Ld. Counsel for A-70 and Sh. Sudhir Chahal, Ld. Counsel for A-78 and A-79 as well as A-1, A-4, A-5, AR of A-6, AR of A-7, A-8, A-37, A-38, AR of A-40, A-41 & A-44, A-60 to A-69, A-74, A-76 and A-79 have been permitted to join the proceedings through VC on oral requests.

An application seeking exemption from personal appearance of A-2 has been filed on ground that he is unable to join the proceedings physically or virtually as he has been travelling to Mumbai with his family for a pre-booked holiday.

The date of hearing of this case was very much in knowledge of the accused and despite that he had booked for his holiday and is stated to be even not in a condition to join the proceedings virtually. This conduct of A-2 is not tolerable as this court feels that the above holiday of accused and his family could have been planned in a manner that proceedings of this case should not have been disturbed or delayed and accused should have atleast joined the proceeding virtually in terms of guidelines/directions issued by the Hon'ble High Court vide the above letter/circular dated 05.06.2023. Hence, a cost of Rs. 10,000/- is being imposed upon him and the said cost is directed to be deposited in bank account of Bar Council of Delhi Indigent & Disabled Lawyers, bearing No. 010104000183451, having IFSC Code : IBKL0000010, being maintained at IDBI Bank, Sirifort Branch, New Delhi.

At this stage, apparently on being communicated about the above proceedings by some associate of Ld. Counsel representing him, A-2 has joined the proceedings virtually and on being asked, he submits that he is now in a Hotel at Mumbai. This falsifies the claim which has been made on his behalf in the above exemption application that he was not in a position even to join the proceedings virtually. Hence, the presence of accused is not being taken on record and his request for waiver of above cost has also been declined with a warning to him to be careful in future in attending the court proceedings.

An application bearing IA No. 02/2024 moved on behalf of A-74 is also pending on record. By way of this application, the accused is furnishing intimation of his return back to country in the form of his affidavit enclosed therewith and it also contains a request for release of the Original Term Deposit Advice/FDR dated 16.01.2024 of Rs. 5 lakhs in the name of his brother-in-law Sh. Pradeep Kumar Garg furnished as security for his timely return and compliance of terms and conditions contained in the order dated 15.01.2024 of this court. The above said Term Deposit/FDR in the name of his brother-in-law and instead of accused himself was directed to be furnished vide subsequent order dated 16.01.2024, in modification of the original order dated 15.01.2024.

However, it has been pointed out by Reader of the court that this intimation of A-74 has not been furnished within the directed time of 48 hours as per the above order dated 15.01.2024 as though the accused returned back to country on 27.01.2024, but the intimation has been filed with the Bail & Filing Section of this court complex on 30.01.2024 only. No satisfactory explanation for the same has been furnished by the accused. Hence, a cost of Rs. 10,000/- is being imposed upon him for violating terms of the above order and the said cost is directed also to be deposited in the above mentioned bank account of Bar Council of Delhi Indigent & Disabled Lawyers and on production of receipt thereof, the above Original Term Deposit Advice/FDR dated 16.01.2024 of Rs. 5 lakhs in the name of brother-in-law of the accused is directed to be released to him against receipt. The application bearing IA No. 02/2024, thus, stands disposed off accordingly.

No reply has been filed even today on behalf of ED to the pending applications moved on behalf of A-1 and A-2 for appointment of fresh ARs of A-9 to A-34 & A-45 to A-59 companies or for disowning some of the above companies. No reply is also being filed to the pending application of A-6 company seeking appointment of a new AR. Hence, the opportunity given for filing replies to these applications is being closed.

As far as application filed on behalf of A-6 is concerned, during the course of submissions being made on this application, Ld. SPP for ED has given his no objection for change of AR of said company. Hence, in view of above and the submissions made, the application dated 16.01.2024 filed on behalf of said company is allowed and its AR is directed to be changed and Sh. Jeev Nath Jha is being appointed as its new AR in place of previous AR Ms. Himani Thakur. This is, however, subject to filing of original board resolution of the said company to this effect as only a photocopy thereof is found annexed with the application, along with copy of aadhar card of the new AR as a proof his identity.

The applications moved on behalf of A-1 and A-2 for appointment of fresh ARs of A-9 to A-34 & A-45 to A-59 companies or for disowning some of the above companies will be taken up for consideration on next date and Ld. Counsel representing these two accused is being directed to file on record, the requisite documents, as already directed to be filed in the connected case of SFIO. It is necessary to mention there that while hearing submissions on similar applications filed in the said case, some discrepancies regarding names etc. of some of these companies were observed and some documents were directed to be filed in connection thereof.

Some more time is being requested on behalf of ED for filing of status about liquidation process of A-72 and A-73 companies. Let the same be filed and a fresh report regarding liquidation process of these companies be also called from Sh. Reetesh Kumar Aggarwal, Resolution Professional for next date.

Two separate applications filed on behalf of A-76 Ajay Gupta, bearing IA Nos. 04/2024 and 05/2024 and seeking recalling of the order dated 29.10.2021 of this court declaring him as a PO (proclaimed offender) and seeking his regular bail U/S 439 Cr.P.C. again in the case respectively, have also earlier been received from the Bail & Filing Section and are fixed for today. Copies of these applications and documents enclosed therewith are stated to have already been supplied to Ld. SPP for ED. Some further documents are also being filed on record today and copies thereof are directed to be supplied.

A-76 was declared as a PO by this court vide order dated 29.10.2021 and his surety/father was discharged on deposit of the surety amount of Rs. 1 lac. It is disclosed in these applications that the accused went to Canada due to some critical health condition and he has returned back to the country only recently and his condition is still continuing to be critical. Let the documents regarding alleged critical condition of accused prior to leaving the country be also filed on record and copies thereof be supplied to IO/Ld. SPP for ED within a week from today. IO shall verify these medical documents and report on next date. IO is also directed to report about verification of other documents issued by the Canadian agencies, if felt necessary. These applications be listed for reply/arguments on **09.04.2024 at 2pm.** Accused is directed to be present physically on said date. Let passport(s) of the accused be also produced on that date.

It is stated by Ld. SPP that Crl. M. C. No. 657/2022, filed by the ED against the order of this court directing supply of unrelied upon documents to the accused, which was fixed for hearing before the Hon'ble High Court on 13.03.2024, now stands adjourned to 26.04.2024.

Application U/S 190 r/w Section 193 Cr.P.C. moved on behalf of A-5 is also fixed for arguments today. However, some time is being requested on behalf of A-5 to address arguments on the same.

In view of the above and as jointly requested, the matter is now directed to be listed on **30.04.2024**, at **10 am**, for consideration of the application U/S 190 r/w Section 193 Cr.P.C. moved on behalf of A-5/arguments on the above applications filed on behalf of A-1 and A-2/further proceedings.

(M. K. NAGPAL)
Special Judge (PC Act),
CBI-09 (MPs/MLAs Cases),
RADC, New Delhi :18.03.2024