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SLP(Crl.)No. 1828 OF 2001  
ITEM No.38

Court No. 8

SECTION II

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No. 1828/2001

(From the judgement and order dated 27/04/2001 in CRLM 412/01  
of The HIGH COURT OF DELHI AT N. DELHI)

SRICHAND P. HINDUJA

Petitioner (s)

VERSUS

STATE THR. C.B.I., NEW DELHI

Respondent (s)

( With Appln(s). for exemption from filing c/c of the impugned  
Judgment & ex-Parte stay )

With

SLP(Crl.)No. 1829/2001,

( With Appln(s). for exemption from filing c/c of the impugned  
Judgment & ex-Parte stay )

SLP(Crl.)No. 1868/2001

( With Appln(s). for exemption from filing c/c of the impugned  
Judgment & ex-Parte stay )

Date : 12/05/2001 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.B. SHAH

HON'BLE MR. JUSTICE Y.K. SABHARWAL

For Petitioner (s) Mr. Kapil Sibal, Sr. Adv.  
in SLP(Crl)1828/2001 M/s UA Rana, CM Mehta, Arvind Kumar, Advs. for  
M/s Gagrat & Co.,Adv.

in SLP(Crl)1828/2001 M/s UA Rana, Arvind Kumar, Amit Desai,  
Zal Andhyarujina, Advs. for  
M/s Gagrat & Co.,Adv.

in SLP(Crl)1828/2001 Mr. PP Rao, Sr. Adv.  
M/s UA Rana, CM Mehta, Arvind Kumar,  
Arvind Nigam, Advs. for  
M/s Gagrat & Co.,Adv.

For Respondent (s) Mr. N Natarajan, Sr. Adv .  
Mr. P Parmeswaran, Adv.  
Mr. A Mariarputham, Adv.

UPON hearing counsel the Court made the following  
O R D E R

...L.....I.....T.....T.....T.....T.....T.....T.....T.....J  
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Heard learned counsel for the parties.  
Leave granted.

...2/-

In a criminal case known as Bofors Case three Hinduja brothers are chargesheeted for the offences punishable under Sections 120-B and 420 of the Indian Penal Code and Sections 5(2) read with 5(1)(d) of the Prevention of Corruption Act, 1947 as per the affidavit filed today before this Court by the Central Bureau of Investigation. The Special Judge, as well as the High Court has passed the orders releasing the appellants on bail. However, a condition, not to go abroad, has been imposed. For this purpose it was pointed out to the High Court that if the accused are permitted to go abroad, it would affect the smooth progress of the trial and there are reasonable grounds to believe that they would not return back to India to face the trial. It is also pointed out that the appellants were Indian Nationals at the time of registration of the F.I.R. and thereafter they have acquired British and Swiss Nationalities.

As against this the learned counsel for the appellants submitted that there is no question of not returning to this country as the appellants are having large stake and as such they were Indian Nationals prior to few years. It is their submission that apart from various industrial activities they are also involved in other social activities including charitable activities. It is pointed out that the appellants all throughout were cooperating with the investigating agency i.e. since 1990 and they have on their own remained present before the trial court.

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Learned counsel further submits that in any set of circumstances, at present two of the appellants may be permitted to leave abroad and stringent conditions may be imposed by this Court. He also submitted that one of the appellants, namely, Mr. Prakash P. Hinduja, who has filed Criminal Appeal No.... of 2001 @ S.L.P. (Crl.) No.1868 of 2001 would remain in this country till further orders.

On behalf of the C.B.I. in the affidavit it has been pointed that at the time of trial, in all, 91 witnesses are likely to be examined. Out of them about 80 are Indian nationals and 11 are foreign nationals. It is also submitted that investigating agency would fully cooperate the trial court in day to day examination of the witnesses and in completing the trial as directed by the High Court, i.e. within six months.

Considering the facts and circumstances, for the time being as an interim measure, the appellants, namely, Mr. Srichand P. Hinduja (in Crl. Appeal No..... of 2001 @ SLP (Crl) 1828/2001) and Mr. Gopichand P. Hinduja (in Crl. Appeal No..... of 2001 @ SLP(Crl) No.1829 of 2001) are permitted to go abroad on the following conditions :

1. Both the appellants would execute a bond for a sum of Rs.15 crores (rupees fifteen crores) each with a bank guarantee for the like amount to the satisfaction of the Special Judge;

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2. On their behalf counsel will remain present on the date of posting of the matter and would not ask for adjournment on the ground that the appellants are not present in India.

3. The appellants will remain present before the Special Judge as and when their presence is needed in the case.

4. If there is any violation of the aforesaid conditions, it would be open to the Special Judge to pass appropriate orders for cancellation of bail of the appellants.

In any case, this order would not adversely affect further proceedings in the trial court and the court will deal with the matter without being influenced in any way by this order or any observations made in the order passed by the High Court.

This interim measure is upto 20th August, 2001 and the matter be listed before this Court on 7th August, 2001 for further hearing and directions.

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(D.L. Chugh)  
Court Master

(K.K. Chadha)  
Court Master