

IN THE SUPREME COURT OF INDIA  
CRIMINAL ORIGINAL JURISDICTION

CRL.M.P. Nos. 5792, 12232/2007  
5187, 9945/2009 and 1377 & 1378/2012

IN

WRIT PETITION (CRL.) NO(s). 256 OF 1999

V.K. SHARMA Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

ORDER

Heard learned counsel for the parties at length.

The criminal miscellaneous application for cancellation of bail is filed by one Anjali Karnwal seeking cancellation of bail granted to V.K. Sharma by an order of this Court dated 28th March, 2000 (hereinafter referred to as 'the said order').

A perusal of the said order would show that the allegations against V.K. Sharma (the writ petitioner) was in respect of economic offences. This Court, considering the peculiar facts of the case in paragraph 1 of the said order, was pleased to grant bail to the writ petitioner in the following terms:

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1. If the petitioner is arrested in connection with any criminal case in his capacity as Managing Director / Director of JVG Group of Companies the arresting officer shall release him on bail on his executing a bond to the satisfaction of the arresting officer.
2. Such relief shall be made after getting an assurance from him that he will be present in the court concerned on the days when his case is posted. However, we make it clear that it is open to the petitioner to apply to the court concerned for exempting him from personal appearance on condition that a counsel on his behalf would be present

on such posting dates and he would not dispute his identity as the particular accused in that case, and further that he would make himself available on any date when his presence is imperatively needed in that court.

3. We permit the petitioner to move the appropriate High Courts for bringing all the cases pending in different courts within the territorial jurisdiction of that High Court to one single court or more than one court (depending upon the number of cases or the width of the area of the State is concerned).
4. This order will come into effect only if the petitioner would surrender his passport in this Court. Shri Shanti Bhushan, learned Senior Counsel expressed a doubt that the petitioner would have already surrendered his passport before another court pursuant to the order passed. In that case he can satisfy the Registrar General of this Court by an affidavit of the situation and the Registrar General can intimate the jail authorities concerned of that position.
5. We make it clear that it is open to the investigating agency in any case to move for cancellation of bail if any such

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investigating agency finds that the petitioner is misusing the liberty granted by this order."

When the said order was placed before us, we were a little surprised looking at the width and ambit of the liberty granted to the petitioner in the said order. However, it appears that subsequently a three Judge Bench of this Court in the case of State of Punjab & Anr. Vs. Rajesh Syal (2002) 8 SCC 158 expressed some reservation on the said order in the following terms:

"In V.K. Sharma Vs. Union of India (2000) 9 SCC 449, this Court did not purport to exercise any jurisdiction under Article 142. The decision to direct the applicant to file applications to be moved for consolidation of the cases pending in different Courts for different offences to be tried in a single court was not in accordance with law, and the said decision of V.K. Sharma and that of P.K. Sharma Vs. Union of India (W.P. (Crl) Nos. 72-75/2000, dated 5-5-2000)

are overruled."

Be that as it may, paragraph 5 of the aforesaid order of this Court makes it clear that it is open to the investigating agency in any case to move for cancellation of bail if such investigating agency finds that the petitioner is misusing liberty granted by this Court.

It is of course true that the present application

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for cancellation of bail has not been filed by the investigating agency. But the learned counsel appearing for C.B.I. has urged before us that in an affidavit which has been filed by CBI, the investigating agency in connection with this proceeding, CBI has supported the prayer for cancellation of bail made by the present applicant. In the said affidavit, we find that the Status Report as disclosed by the CBI runs into details referring to various FIRs against the writ petitioner. Many of the FIRs have been lodged against the writ petitioner after the said order has been passed by this Court and in some of the FIRs, the following comments have been made in the Status Report furnished by the investigating agency:

"FIR No. 461, dt. 08.07.06 u/s 406 /409 / 420 / 120 B, IPC, PS R.K. Puram

Col., (Retd.) Vijay Pal & Ors. r/o 193, Satya Niketan, Moti Bagh-II, New Delhi, complainant is representing the six other complainants. They have alleged in their complaints that JVG Group of Companies had offered safe investment schemes with intention of giving fixed returns on the investment made. On the basis of such representations, the complainants invested money in the company during the year 1996-97 who were given receipts of the investments made along with post dated cheques by the complainant on maturity. The said cheques when deposited by the complainant on maturity were dishonoured with the observation 'account closed'. Then the complainants learnt that JVG had already closed down their offices and were evading to meet the complainants. The total sum of investment and interest due on maturity of

all the complainants such Mr. V.K. Sharma, Director of JVG Group directors have cheated is Rs.24,33,450/-. As Chairman cum Managing of Companies and the the complainants."

Similar such references to other F.I.Rs. against the petitioner have been made in the status report of C.B.I.

There is also another affidavit filed on behalf of Economic Ofences Wing, Crime Branch, Delhi Police which was affirmed by one K.K. Vyas, Deputy Commissioner of Police. In that affidavit also paragraphs 5 to 8 contain various allegations against the writ petitioner and in that affidavit also, the stand of the investigating agency is for cancellation of bail of the writ petitioner and in para 8, the following averments have been made:

"On examination of the witnesses, collection of evidence, investigation conducted, perusal of complaints received so far and scrutiny of bank records of the companies in which accused V.K. Sharma and his associates are involved it is revealed that accused V.K. Sharma is definitely misusing the liberty granted by this Hon'ble Court and is involved in cheating the public at large. So the bail granted to the accused V.K. Sharma may kindly be cancelled."

We have also heard learned counsel for the Official Liquidator before the Delhi High Court and our attention has been drawn to an order dated 4th November, 2011 passed by the learned Judge of the Delhi

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High Court before whom the writ petitioner was appearing. In various paragraphs of the said order, the Delhi High Court has referred to various ways in which the writ petitioner is acting and in para 6 of the said order of the High Court, the following conclusions have been reached:

"In view of aforesaid, this Court is convinced that Mr. V.K. Sharma is clearly misusing the liberty granted to him. Further, this Court is of the opinion that

it will not be able to make any purposive headway in the proceedings unless Mr. V.K. Sharma appears before this Court as well as Official Liquidator and offers full cooperation."

It also appears that some proceedings have been initiated by the Reserve Bank of India wherein the writ petitioner has been declared as 'proclaimed offender' by the Court of Chief Metropolitan Magistrate, Tis Hazari Courts, Delhi. The certified copy of the said order dated 11th February, 2010 is placed before us.

It further appears that after the said order of this Court granting bail to the writ petitioner in a very general and blanket manner in March, 2000, the writ petitioner has not been sent to prison so far in connection with any of the cases initiated against him.

We are aware of the precious right of 'personal liberty' guaranteed under our Constitution. We are of the view that when criminal cases are filed against  
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citizens, they have a right to approach the Courts with prayers for bail. While dealing such cases, a balance has to be struck by the Court between the needs of protecting personal liberty as also the requirement of maintaining social security and the rights of others in ensuring a proper investigation and an early conclusion of criminal proceeding. Despite pendency of various proceedings against the writ petitioner, most of which appear to have been initiated to protect the interest of investors, the writ petitioner has not co-operated with the investigating agencies.

Having regard to the materials which are disclosed before us, we find that the writ petitioner has prima facie indulged in an abuse of the liberty granted to him by the aforesaid order of this Court. We are of the considered opinion that in the interest of justice the writ petitioner is not entitled to the liberty granted

to him by the said order. The said order dated 28th March, 2000 granting bail to the writ petitioner Mr. V.K. Sharma, therefore, stands cancelled.

However, the cancellation of the said order will take effect eight weeks hence.

In the meantime, the writ petitioner must appear before the Delhi High Court within a week. We request

the High Court and also the Official Liquidator to take  
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steps for protecting the interest of the investors. We are passing this order considering the interest of investors and we make it clear that the said period of eight weeks will not be extended further and this order of cancellation will come into effect on the expiry of the said period of eight weeks.

We make it very clear that we are giving a last chance to the writ petitioner to resolve the ongoing disputes with investors so that the interest of investors is protected.

All the criminal miscellaneous petitions are thus allowed.

.....J.  
(ASOK KUMAR GANGULY)

.....J.  
(JAGDISH SINGH KHEHAR)

NEW DELHI,  
27-01-2012

ITEM NO.1 COURT NO.8 SECTION X

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

CRL.M.P. Nos. 5792, 12232/2007 AND 5187, 9945/2009, 1377&1378/2012  
IN WRIT PETITION (CRL.) NO(s). 256 OF 1999

V.K. SHARMA Petitioner(s)  
VERSUS Respondent(s)  
UNION OF INDIA & ORS.  
(FOR IMPLEADMENT, ERMISION TO FILE ADDL. DOCUMENTS,directions,  
permission to file synopsis and cancellation of bail  
and office report)

Date: 27/01/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY  
HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR

For the parties :

Mr. P.P. Malhotra, A.S.G.  
Mr. S. Wasim A. Qadri, Adv.  
Mr. Sadhna Sandhu, Adv.  
Mr. Zaid Ali, Adv.  
Mr. B.V. Balram Das, Adv.

Mr. Anoop George Chaudhary, Sr. Adv.  
Mr. S.B. Sanyal, Sr. Adv.  
Mr. June Chaudhary, Sr. Adv.  
Mr. Anil Karnwal, Adv.  
Mr. Chander Shekhar Ashri, Adv.  
Mr. Anil Kumar, Adv.

Mr. P.S. Patwalia, Sr. Adv.  
Mr. Shailendra Singh, Adv.  
Mr. Rajesh Kumar, Adv.  
Mr. Ajay Kaushik, Adv.  
Mr. Kaushal Yadav, Adv.

Mr. Harish Chander, Sr. Adv.  
Mr. Shailendra Sharma, Adv.  
Mr. B.K. Prasad, Adv.

Mr. Manish K. Bishnoi, Adv.  
Mr. Rajiv Behl, Adv.

Ms. Alka Agrawal, Adv.

Mr. Kaushal Yadav, Adv.  
Mr. Shailendra Singh, Adv.

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Mr. S.S. Shamsbery, Adv.  
Mr. Arun Bhardwaj, Adv.  
Mr. Bhakti Vardan Singh, Adv.  
Ms. Asha Kochar, Adv.  
Mr. R.C. Kohli, Adv.

Mr. Bhakti Vardham Singh, Adv.  
Dr. Kailash Chand, Adv.

Ms. Sushma Suri, Adv.

Ms. Kamini Jaiswal, Adv.

Mr. Chander Shekhar Ashri, Adv.

Mr. Vinay Kumar Garg, Adv.

Mr. Shankar Divate, Adv.

Ms. Jaspreet Gogia, Adv.

Mr. Vipin Gogia, Adv.

UPON hearing counsel the Court made the following

O R D E R

The Crl.M.Ps. Are allowed in terms of the signed  
order.

(G. SUDHAKARA RAO)  
COURT MASTER

(VINOD KULVI)  
COURT MASTER

(SIGNED ORDER IS PLACED ON THE FILE)