

HIGH COURT OF UTTARAKHAND**Bench: Justice Alok Kumar Verma****Date of Decision: 11-12-2023**

First Bail Application No. 754 of 2023

SANDEEP GUPTA**Vs.****DIRECTORATE OF ENFORCEMENT (PMLA)****Sections, Acts, Rules, and Articles Mentioned**

Section 439 of the Code of Criminal Procedure, 1973

Sections 3 and 4 of the Prevention of Money Laundering Act, 2002

Sections 406, 411, 418, 419, 420, 468, 120-B, 467, 34, 471 of the Indian Penal Code, 1860

Section 45 of the Prevention of Money Laundering Act, 2002

Section 50(3) of the Prevention of Money Laundering Act, 2002

Subject :Rejection of bail application in connection with money laundering charges and allegations of cheating and fraud.**Headnotes :**

Bail Application – Rejection – Bail application under Section 439 of CrPC rejected for Sandeep Gupta, involved in ECIR 01/DNSZO/2016 for offences under Section 3 read with Section 4 of the Prevention of Money Laundering Act, 2002. The Court found no reasonable grounds for believing the applicant is not guilty, as mandated under Section 45 of the Act, 2002. [Para 1, 18]

Criminal Charges – Fraud and Cheating – Multiple FIRs against the applicant for cheating and fraudulently promising admission in Post-Graduation courses at HIHT, Dehradun, under various IPC sections. [Para 3-6]

Money Laundering Allegations – Active role of the applicant in money laundering, impersonating as P.A. to the V.C. of HIHT Medical College, and involvement in generating funds deemed proceeds of crime under the Prevention of Money Laundering Act, 2002. [Para 9, 14]

Evidence against Accused – Statements of victims and financial transactions pointed to the applicant's involvement in criminal activities. [Para 11-14]

Bail Criteria – PMLA, 2002 – Emphasis on strict criteria under Section 45 of the Prevention of Money Laundering Act, 2002 for bail. Serious and grave allegations against the applicant not meeting mandatory bail conditions. [Para 15-17]

Observations Limited to Bail Proceedings – Court's observations confined to bail application, not affecting the trial. [Para 20]

Referred Cases and Citations

None mentioned in the provided judgment.

Representing Advocates

- For the Applicant: Mr. Aditya Singh

- For the Respondent: Mr. Atul Bahuguna, Advocate, Central Government Standing Counsel

JUDGMENT

Alok Kumar Verma, J. - The present Application has been filed under Section 439 of the Code of Criminal Procedure, 1973 by the applicant-accused seeking regular bail in connection with the Complaint Case (Special Sessions Trial No. 01 of 2021, bearing ECIR 01/DNSZO/2016), pending before the Court of District and Sessions Judge, Dehradun.

2. Applicant is in judicial custody since 14.03.2023 for the offence under Section 3 read with Section 4 of the Prevention of Money Laundering Act, 2002 (in short, 'Act, 2002').

3. The facts of the case reveal that four FIRs were lodged against the present applicant and co-accused persons. One FIR (No. 61 of 2015) was registered at Police Station -Nehru Colony, Dehradun on the basis of the complaint filed by one Lakham Bikashpathi. A charge-sheet was filed against the present applicant and co-accused persons under Sections 406, 411, 418, 419, 420, 468 and Section 120-B of the Indian Penal Code, 1860 (in short, 'IPC'). It was alleged that the applicant along with co-accused persons cheated the complainant to the tune of Rs. 10 lakh by dishonestly inducing him in getting admission for his daughter in Post Graduation Course at Himalayan Institute and Hospital Trust, Jolly Grant, Dehradun (in short, 'HIHT').

4. One FIR (No. 109 of 2015) was registered at Dalanwala Police Station, Dehradun on the basis of the complaint filed by one Dr. Amardeep Kumar Singh. It was alleged that the present applicant along with co-accused

persons cheated him to the tune of Rs. 46 lakh by dishonestly inducing him in getting admission for his son in the Post Graduation Course in HIHT. A charge-sheet was filed against the present applicant and co-accused persons under Sections 406, 418, 419, 420, 467, 468, 34, 471 and Section 120-B IPC.

5. An FIR (No.112 of 2015) was registered at Dalanwala Police Station, Dehradun on the basis of the complaint of Dr. Sidhant Kulkarni. It was alleged that the present applicant along with co-accused persons cheated him to the tune of Rs. 64 lakh by dishonestly inducing him in getting admission in the Post-Graduation Course in M.D. (Dermatology) at HIHT. Upon conclusion of the investigation, a charge-sheet was filed against the present applicant and co-accused persons under Sections 406, 418, 420, 34 and Section 120-B IPC.

6. An FIR (No. 116 of 2015) was registered at Police Station Dalanwala, District Dehradun on the complaint of Dr. K. Tarun Rao. After investigation, a charge-sheet was filed against the present applicant and co-accused persons under Sections 418, 419, 420, 406 and Section 120-B IPC. It was alleged in that matter that the present applicant along with co-accused persons cheated the complainant to the tune of Rs. 29 lakh by dishonestly inducing him in getting admission in Post-Graduation Course in M.D. (Pulmonology) at HIHT.

7. Heard Mr. Aditya Singh, learned counsel for the applicant and Mr. Atul Bahuguna, learned Central Government Standing Counsel for the respondent.

8. It is submitted by Mr. Aditya Singh, learned counsel appearing for the applicant, that a bare perusal of the complaint, filed by the respondent, would reveal that there are no allegations against the present applicant that he ever generated or received any money and there is no allegation against the applicant that any point in time he handled any proceeds of crime for any of the purposes mentioned under Section 3 of the Act, 2002, whereas, for being regarded as proceeds of crime, the property associated with the scheduled offence must have been derived or obtained by a person, 'as a result of' criminal activity relating to the concerned scheduled offence. The prosecution agency has not recorded any reasons to believe which are required to be recorded in writing that the applicant is in connection of any proceeds of crime, and, applicant is ready and willing to submit bail bonds to the satisfaction of this Court.

9. The allegations against the present applicant have been detailed in paragraph no. 15.6 of the Complaint. The role of the applicant in the commission of the offence of money laundering reads as under;

'15.6 Sandeep Gupta (Accused no. 6)

Sandeep Gupta one of the accused who has played an active role in inducing the complainants in getting admission in the Post-Graduation course in HIHT Medical College, Jolly Grant, Dehradun. He projected himself as the P.A. to the V.C. of HIHT Medical College, Jolly Grant, Dehradun. He has admitted in his statement that he met the complainants at Hotel.

Sandeep Gupta in connivance with other accused persons has generated huge funds to the tune of Rs. 1.29 Cr. through criminal activity related to the scheduled offence. He projected himself as the P.A. to the V.C. of HIHT Medical College, Jolly Grant, Dehradun. He used to get commission for the

said work. These funds are nothing but proceeds of crime generated through criminal activity related to the scheduled offence.

Thus, Sandeep Gupta is one of the main architects involved in cheating the candidates by falsely impersonating himself as the P.A. to the V.C. of HIHT Medical College, Jolly Grant, Dehradun and giving false assurance of their admission in medical P.G. Course in HIHT/SRHU in lieu of huge sum of donation amount and hence he is directly or indirectly beneficiary of PoC. He is indulged or knowingly involved in process/activities of possession, acquisition; use/concealment of the PoC hence appears to have committed offence of money laundering under Section 3 of the Prevention of Money Laundering Act, 2002, which is punishable under Section 4 of the Prevention of Money Laundering Act, 2002.'

10. Mr. Atul Bahuguna, Advocate, appearing for the respondent, contended that the present applicant played an active role in inducing the complainants in getting admission in the Post Graduation course in HIHT. He projected himself as the Personal Assistant to the Vice Chancellor of HIHT. He along with co-accused persons has collected donations and received commission from the complainants. He in connivance with co-accused persons has generated huge funds to the tune of Rs. 1.29 Cr. through criminal activity related to the scheduled offence. He used to get commission for his said illegal activity. These funds are proceeds of crime generated through criminal activity related to the scheduled offence. The present applicant is one of the main architects involved in cheating the complainants by falsely impersonating himself as the P.A. to the V.C. of HIHT and received huge amount as commission.

11. Mr. Atul Bahuguna, Advocate submitted that statement of Dr. Amardeep Kumar Singh (informant/victim of FIR No. 109 of 2015) was recorded under Section 50(3) of the Act, 2002. He inter-alia stated that during January, 2014, he was approached by one Anubhav Garg inquiring about his willingness of P.G. admission of his son in HIHT Jolly grant, Dehradun. On showing his interest, Anubhav Garg advised him to go to HIHT Jolly Grant, Dehradun on 24.01.2015. On his arrival to HIHT, he was introduced to two persons namely Ankush Sagar Khatri and Vijay. Ankush Sagar Khatri quoted Rs. 1 Crore as the price for MS (General Surgery) under Management quota per seat. However, the deal was negotiated at Rs. 82 lakh including tuition fee i.e. Rs. 46 lakh in cash and 36 lakh through bank draft. Ankush Sagar Khatri also introduced him to Rohit Singh Chauhan, Sandeep Gupta and Ratish Negi.

12. Mr. Atul Bahuguna, Advocate submitted that statement of Dr. Sidhant Kulkarni (informant/victim of FIR No. 112 of 2015) was recorded under Section 50(3) of the Act, 2002. He inter-alia stated that he met Sandeep Gupta in Madhuban Hotel. He introduced himself as the P.A. to the V.C. Dhasmana.

13. Mr. Atul Bahuguna, Advocate submitted that statement of Dr. K. Tarun Rao (informant/victim of FIR No. 116 of 2015) was recorded under Section 50(3) of the Act, 2002. As per the statement of Dr. K. Tarun Rao, when he reached Delhi on 17.03.2015, he went to Cancer Department of HIHT where he met Rohit Chauhan, Ankush Sagar Khatri and Sandeep Gupta and they were introduced by Rajeev Rana to him as employee of Administrative Wing of HIHT.

14. Mr. Atul Bahguna, Advocate further submitted that investigation also revealed that Dr. Sidhant Kulkarni paid an amount of Rs. 1 lakh to Ratish Negi, the co-accused, as a token amount. The whole deal was finalized for

an amount of Rs. 1 Crore. The said amount i.e. Rs. 1 lakh received in cash was equally distributed among Sandeep Gupta (present applicant) and co-accused persons. Dr. Sidhant Kulkarni transferred an amount of Rs. 63 lakh to the account of M/s Wit Edulink Private Limited, the co-accused, and out of the said amount, a sum of Rs. 6 lakh was received by Sandeep Gupta (present applicant).

15. As per Section 45 of the Act, 2002, while considering grant of bail to accused, the Court has to satisfy that;

(i) There are reasonable grounds for believing that accused is not guilty of such offence, and that,

(ii) He is not likely to commit any offence, while on bail.

16. The expression 'reasonable grounds' means something more than prima facie grounds. It is the mandate of the Legislature which is required to be followed. The non-obstante clause with which Section 45 of the Act, 2002 starts should be given its due meaning and clearly it is intended to restrict the powers to grant bail.

17. Allegations against the present applicant are not without substance. The allegations are categorical and specific. A definite role has been assigned to the applicant. On perusal of the record, it reveals that serious and grave allegations have been levelled against the applicant. The mandate of the Parliament is that the person accused of the offence under the Act should not be released on bail unless the mandatory conditions provided under Section 45 of the Act, 2002 are satisfied.

18. In the facts and circumstances of the case, it cannot be said that mandatory conditions, as mentioned above, have been satisfied. It is, therefore, not possible for this Court to record satisfaction that there are reasonable grounds for believing that the applicant is not guilty of such offence. The bail application is liable to be rejected.

19. For the reasons afore-stated, and without expressing any views on merits of the case, I reject the bail application of the applicant.

20. However, it is also made clear that the observations made by this Court is only for the disposal of this bail application. The said observations shall not affect the trial.

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