

Sanjeev Nanda Vs. Cbi

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Court : Delhi

Decided On : Dec-01-2014

Judge : V.P.Vaish

Appellant : Sanjeev Nanda

Respondent : Cbi

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI Date of decision:

1. t December, 2014 % + CRL.M.C. 4484/2014 SANJEEV NANDA Through: Petitioner Mr. Siddharth Luthra, Sr. Advocate with Mr. Sandeep Kapur and Mr. Vivek Suri, Advocates. versus CBI Through: Respondent Mr. Narender Mann, Spl. PP for CBI. CORAM: HON'BLE MR. JUSTICE VED PRAKASH VAISH VED PRAKASH VAISH, J.

(ORAL) 1. By filing the present petition under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C. for short), the petitioner Sanjeev Nanda seeks modification of order dated 29.04.2008 passed by this Court in Bail Application No.749/2008.

2. Succinctly stating the facts giving rise to the present case are that the petitioner is facing trial for the offence under Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1978 read with Section 120B of IPC in case RC No.AC1/2008/A0001 registered by CBI. The petitioner was arrested on 08.03.2008

at Mumbai. He moved an application for bail bearing Bail Application No.748/2008 and was released on bail vide order dated 29.04.2008 subject to following conditions:

18. Keeping in view the facts and circumstances of the case, this Court is of the considered view that the petitioners have made out a case for grant of bail at this stage. Each of the petitioners shall be released on bail on their furnishing personal bonds in the sum of Rs.1,00,000/- with two sureties each in the like amount to the satisfaction of the Special Judge, CBI, Patiala House, New Delhi. The petitioners are not permitted to leave the country without the prior permission of the trial court. As far as, each of the petitioners will appear before the trial court as and when the matter is fixed there and in addition appear before it on the first working Monday of every calendar month. At each appearance, they will furnish their correct present address to the trial court. The passport of Mr. Bipin Shah seized by the CBI will be deposited in the trial court. The impounded passport of Mr. Suresh Nanda will also be deposited with the trial court. As regards the passport of other petitioners i.e. Mr. Sanjeev Nanda and Mr. Asuthosh Verma, they will also surrender their passports in the trial court forthwith. The petitioners will not influence any of the witnesses and not seek unnecessary adjournments before the trial court. They will not impede the fair progress of the trial in any manner whatsoever.

3. Learned senior counsel for the petitioner submits that the petitioner is engaged in the business of hospitality and has to travel abroad. During the last about six years, the petitioner after seeking due permission from the trial court has travelled abroad on numerous occasions to various countries and has complied with all the terms and conditions imposed by the trial court and the petitioner never misused the liberty granted to him. He further submits that whenever the petitioner used to travel abroad, the petitioner has to move an application seeking permission to travel abroad and he used to take permission for release of his passport by the trial court. In view of the conditions imposed by this Court vide order dated 29.04.2008, the petitioner used to spend about ten days in the process of obtaining permission to travel abroad.

4. Learned senior counsel for the petitioner is relying upon judgment in Anil Rai vs. CBI, 2008 (4) JCC2464 He urges that the condition requiring the petitioner to seek permission from the trial court before travelling abroad is liable to be waived.

5. Per contra learned Special PP for CBI urges that on numerous occasions the petitioner was granted the permission to travel abroad. The petitioner cannot seek unrestricted permission to travel abroad as the same may delay the trial of the case.

6. I have carefully considered the submissions made by learned counsel for the parties.

7. It is a settled law that while granting anticipatory bail, Court may impose certain conditions in the light of the facts and circumstances of the case as it may think fit. Section 438(2) of Cr.P.C. enumerates that some conditions which can be imposed while granting anticipatory bail. Section 437 of Cr.P.C. also provides that when a person accused or suspected for commission of offence punishable with imprisonment which may extend to ten years or more, before releasing him on bail under sub-section (1) of Section 437, the Court may impose any condition which the Court considers necessary: (a) In order to ensure that such person shall attend in accordance with the conditions of the bond executed under this Chapter; (b) In order to ensure that such person shall not commit an offence similar to the offence of which he is accused, suspected, of the commission of which he is suspected; and (c) That such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence; and (d) 8. Otherwise in the interests of justice. From a bare perusal of aforesaid provisions of Sections 437(3) and 438(2) of Cr.P.C., it is clear that the conditions which can be imposed are primarily with a view to ensure availability of the accused during investigation and trial and to ensure non-interference with Courts of justice. Other conditions which the Court may think fit can also be imposed but idea should be to ensure his presence as and when required and his non-interference with the investigation, enquiry or trial.

9. In the present case, the petitioner moved an application for bail and while granting bail this Court passed an order for release of petitioner on certain conditions. The said conditions were imposed to ensure presence of the petitioner during trial. The condition regarding appearance of the petitioner on every first Monday of calendar month was waived by this Court in Crl. M.C. No.844/2013 vide order dated 01.03.2013.

10. Having considered the facts and circumstances of the case and the fact that the petitioner has already been granted permission on numerous occasions to travel abroad, it can not be said that the condition imposed by this Court vide order dated 01.03.2013 is unreasonable. I do not find any sufficient ground to waive the condition of obtaining prior permission of the trial court before leaving the country.

11. Accordingly, the petition is dismissed. (VED PRAKASH VAISH) JUDGE
DECEMBER1 2014 hs

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