

LD-VC-CW-BA-55 -2020
IN THE HIGH COURT OF BOMBAY AT GOA

LD-VC-CW-BA-55 -2020

Sunil Kumar

.....Applicant

V e r s u s

**Asst. Director,
Enforcement Directorate,
Panaji Zonal Office**

.....Respondent

Mr. A. D. Bhobe, Advocate for the Applicant.

Mr. S. Samant, Standing Counsel for the Respondent.

CORAM: DAMA SESHADRI NAIDU, J.

DATE: 7th November 2020.

ORDER:

After going through the record filed by either side, I, prima facie, reckon the first accused, Ankeet Kumar, that is the applicant's son, has been at the helm of the affairs of various shell companies. In those companies, the other members of his family, including his applicant-father, are the directors.

2. Earlier, the first accused was arrested and subjected to enforcement custody. After interrogation, the Directorate officials surrendered him to the trial Court, seeking no further extension. Then, the trial Court remanded him in judicial custody. Over time, he secured bail, too.

3. Here, we need not talk about the predicate offences involving section 420 and other provisions of IPC. In those crimes, all the accused got bail. It was over a year ago. Based on those predicate offences, the Enforcement Directorate registered a case and started the investigation.

Thus, since January 2020, the respondent has been seized of the issue. Indeed, this economic offence has cross-border issues, involving about seven crore rupees.

4. In fact, the learned Standing Counsel contended that despite best efforts by the enforcement officials, the applicant has not responded to the Directorate's numerous summonses. Given the pandemic and the physical disability the applicant suffers from, the Directorate officials had even offered to visit the applicant at his house, as part of the investigation. But the applicant did not respond. So, the learned Standing Counsel has insisted that the applicant does not deserve this Court's indulgence in the name of anticipatory bail.

5. The learned Standing Counsel has pointed out that the applicant apparently has no source of income. Yet he has purchased properties in the UK, besides maintaining bank accounts there. Even the UK investigating agencies have been looking into the applicant's affairs.

6. On the other hand, the learned counsel for the applicant has submitted that the applicant, in his mid-70s, has been polio-affected since childhood; he suffers from 80% physical disability, besides being a prostate-cancer patient. He, nevertheless, submits that the applicant will cooperate with the Investigating Agency and is ready to make himself available before the authorities as and when summoned.

7. To sum up, the applicant's counsel submits that the applicant is aged, ailing, and innocent. He is in his mid-70s, suffers 80% disability and is

afflicted with prostate cancer. He is a mere director in the companies, never being at the helm of the affairs.

8. As I have already noted, I reckon that the first accused has allegedly masterminded the alleged crime. And, perhaps, the members of the family, including the applicant, have found themselves enmeshed in this cross-border crime. Before taking any decision on this application for anticipatory bail, I desire to look into the FIRs in the predicate offence to see whether there is any active role attributed to the applicant in those crimes: the crime of inducing foreigners to invest in those companies for purchasing properties in Goa.

9. At any rate, this order does not preclude the authorities from summoning the applicant and continuing its investigation, short of subjecting him to arrest. Once the applicant is summoned, he must appear before the Directorate authorities and co-operate with them, on all occasions. Whenever the applicant is summoned, the authorities will release him by sunset, of course, with a further direction to the applicant to be present the next day, if necessary. It is open for the Directorate to bring to the Court's notice if this arrangement yields no desired result; say, securing the applicant's cooperation.

10. This arrangement will continue for two weeks. On the reopening day, the applicant will place on record the copies of FIRs in the predicate offence. Then, the Court will Rule on the merits.

Post the matter on 26/11/2020.

DAMA SESHADRI NAIDU, J.

AP/-