Anup Prakash Garg
vs.
Enforcement of Directorate Through Assistant Director, PMLA
ECIR/HQ/17/2017
FIR No. RCBD1/2017/E/0007, dtd. 25.10.2017
U/s 13(2) r/w 13(1)(d) of PC Act, 1988

02.05.2018

Present: None.

**1**. By this order I shall decide the third bail application moved on behalf of the applicant/accused Anup Prakash Garg.

**2**. Arguments heard. Record perused.

Brief facts of the case are that pursuant to the registration of FIR bearing No. RCBD1/2017/E/0007 under sections 13 (2) read with 13 (1) (d) of PC Act, 1988 and 120-B r/w Sections 420, 467, 468 & 471 IPC against M/s. Sterling Biotech Ltd. (SBI group), its Directors, Sh. Anup Prakash Garg (Ex-Director, Andhra Bank) and others on 25.10.2017, the matter was taken up by the Directorate of Enforcement, Headquarter Investigation Unit, New Delhi and ECIR No. HQ/17/2017, dated 27.10.2017 was recorded for investigation under the provisions of the Prevention of Money Laundering Act (PMLA), 2002. During the course of investigation, role of the present applicant Anup Prakash Garg was found to be involved in the offence of money laundering (as provided in section 3 of the PMLA, 2002 and punishable under section 4 of the PMLA, 2002) and the present applicant was arrested on 12.01.2018 at 11:40 p.m. in matter related to

ECIR No. HQ/17/2017 dated 27.10.2017 under section 19 of the PMLA, 2002. On 13.01.2018, the present applicant Anup Prakash Garg was produced before the concerned Duty Magistrate, Patiala House Courts, with the request to grant ED custody for 14 days. However, the Ld. Duty Magistrate granted the ED custody for two days and sent the above named accused to Enforcement Directorate remand with direction to produce him before the concerned Court on 14.01.2018.

**3**. As per the case of ED there was a raid by Income Tax Department in the premises of Sterling Biotech Ltd. (SBL) under section 132 of Income Tax Act and during the said raid various documents were stated to have been seized, which revealed that huge amount of cash had been given to various government servants. Thereafter, the CBI registered a case under section 13(2) r/w with section 13(1)(d) of Prevention of Corruption Act r/w Section 120-B IPC on 30.08.2017. The DoE also registered an ECIR under Section 3 and 4 of PMLA. Statement of certain persons were recorded and the present applicant is one of the Directors of Andhra Bank, who played major role in sanction of huge amount of loan amounting to Rs. 250 crores during his tenure on the basis of the shell companies and fake documents after taking cash amount from various persons. Another FIR was registered by CBI on 25.10.2017 against Sterling Biotech Ltd., its Directors, Chartered Accountants and the present applicant and unknown public servants. The main allegation in the said FIR was that huge credit facilities and loans were obtained by Sterling Biotech Ltd., its sisters concern from Andhra Bank and consortium of banks lead by Andhra Bank on the basis of forged and fabricated documents in a criminal conspiracy with the applicant and a huge sum of Rs. 5383 crores is stated to be outstanding. On 27.10.2017, the DoE registered another ECIR to undertake investigation and various summons were issued to the present applicant who joined the investigation on various dates.

**4**. It has been argued by learned counsel for applicant/accused that applicant/accused Anup Prakash Garg is in custody for last 110 days i.e. since 12.01.2018. He has argued that fresh ground for filing the present third bail application is that investigation is complete now and ECIR (challan) has already been filed. He has further argued co-accused Gagan Dhawan and Rajbhushan Omprakash Dixit have already been granted bail in this case and present accused was only an independent Director of Andhra Bank and had cooperated with the investigation and was in police custody for 9 days and no further custodial interrogation of accused is required. It is stated that only Rs. 235 crores was sanctioned during the tenure of the accused as Director of Andhra Bank.

**5**. On the other hand, learned Special PP for Enforcement Directorate has vehemently opposed the bail application arguing that over Rs. 1.5 lakhs crores were paid to the accused as bribe which amount was used in the shell companies. He has further argued that other accused persons including Chetan Sandesara and Nitin Sandesara are absconding.

He has further argued that role of the present accused is different from Gagan Dhawan as well as Rajbhushan Omprakash Dixit (who have been granted bail) as has already been discussed by this court while dismissing the earlier bail application of present accused vide order dated 01.03.2018. It is further argued by learned Special PP for Enforcement Directorate that present accused is CA and Director of the Andhra Bank and had major role in sanctioning the loan to Sterling Group of Companies on the basis of forged and fabricated documents and was fully aware of the transactions.

**6**. I have carefully gone through the file and considered the arguments addressed from both sides. Vide order dated 01.03.2018, this court had already dismissed the earlier bail application of applicant/accused and as discussed in the said order, there are specific allegations and incriminating material against the present applicant/accused and therefore, he cannot claim parity with co-accused Gagan Dhawan and Rajbhushan Omprakash Dixit. Trial in the present case is yet to commence and beneficiaries are still absconding. Therefore, considering the overall facts and circumstances of the case as well as nature and gravity of offence, I do not find any fresh ground to grant bail to the present accused. Application is therefore, dismissed.

(Sidharth Sharma)
Addl. Sessions Judge-02/NDD/PHC
New Delhi/02.05.2018