



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO._____/2024
[@ SPECIAL LEAVE PETITION (CRL.) NO.9374/2024]

Zeeshan Haider

Appellant(S)

Versus

Directorate Of Enforcement

Respondent(S)

WITH

CRIMINAL APPEAL NO._____/2024
[@ Special Leave Petition (CRL.) NO. 9576/2024]

O R D E R

1. Leave granted.
2. Heard learned counsel appearing for the parties.
3. The appellants are in custody for about one year and one month. Charge has not been framed in a complaint filed under the Prevention of Money-Laundering Act, 2002 (PMLA). In the complaint, 29 witnesses have been cited and about 50 documents are relied upon which run into 4000 pages approximately.
4. The appellant in the first matter (@ SLP (Crl.) No.9374/2024) has given an undertaking on oath dated 6th December, 2024. The appellant in the second matter (@ SLP

(Crl.) No. 9576/2024) has given an undertaking dated 9th December, 2024. The undertakings are on oath. We accept that undertakings and make the undertakings as a part of the record.

5. The trial is not likely to commence as even charges have not been framed. Therefore, in the facts of the case and in view of the undertakings furnished by the appellants, what is held in paragraphs 25 to 28 of the decision of this Court in the case of V. Senthil Balaji versus The Deputy Director, Directorate of Enforcement, [2024 INSC 739], will have to be followed and the appellants will have to be enlarged on bail.

6. Accordingly, the appeals are allowed. The Special Court shall enlarge the appellants on bail on appropriate terms and conditions including condition of abiding by the undertakings furnished by them.

7. We make it clear that if the hearing of the complaint is delayed due to any act or omission on the part of the appellants, it will be open for the respondent to apply for cancellation of bail before the Special Court.

I.A. No.277225/2024 - Application for Directions

8. Learned counsel appearing for the respondent invited our attention to paragraph 7.5 of the order dated 27th November, 2024 passed by the learned Special Judge dealing

with cases under the provision of Money Laundering Act, 2002. Paragraph 7.20 reads thus:

"...7.20 Before parting, with the order, it will be in the interest of justice to draw the kind attention of the legal wing of ED regarding the directions issued by the Apex Court in Javed Gulam Nabi Shaikh vs. as find mentioned in paragraph 7.11 of this order. It is expected of Worthy Director that he shall issue appropriate instructions to the Ld. SPP's not to oppose the bail plea where the delay of trial has been occasioned due to the conduct of ED."

9. We have carefully perused the observations made by the Special Court. It is well settled that a Public Prosecutor has to be fair. If a case is covered by a binding precedent, it is his duty to point out the said aspect to the Court. Perhaps what the learned Judge intended to was that when the Public Prosecutor is satisfied that the trial has been delayed on account of default or conduct on the part of Enforcement Directorate, the Public Prosecutor should take a fair stand. However, the aforesaid observations will not prevent Public Prosecutors from opposing a bail petition on the ground that act or omissions on the part of Enforcement Directorate are not responsible for the delay of trial. Therefore, this order cannot be read to mean that the Public Prosecutors are not entitled to oppose the bail petitions. We may also note

that the Enforcement Directorate or its Director can give instructions to a Public Prosecutor on facts of the case. However, Enforcement Directorate or its Director cannot give any directions or instructions to the Public Prosecutor about what he ought to do or ought not to do before the Court as an officer of the Court.

10. Accordingly, paragraph 7.20 stands clarified. It is obvious there is no requirement on the part of Director of Enforcement Directorate to issue directions as contemplated in paragraph 7.20.

11. I.A. is accordingly disposed of.

12. Pending application(s), if any, shall stand disposed of.

.....J.
(ABHAY S.OKA)

.....J.
(AUGUSTINE GEORGE MASIH)

NEW DELHI;
DECEMBER 11, 2024.

ITEM NO.42

COURT NO.5

SECTION II-C

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

Petition for Special Leave to Appeal (Crl.) No.9374/2024

[Arising out of impugned final judgment and order dated 01-07-2024 in BA No. 1606/2024 passed by the High Court of Delhi at New Delhi]

ZEESHAN HAIDER

Petitioner(s)

VERSUS

DIRECTORATE OF ENFORCEMENT

Respondent(s)

([PART HEARD BY :- HON'BLE MR. JUSTICE ABHAY S. OKA AND HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH,JJ.] [AT 2.00 P.M.]

(IA No. 150756/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

(I.A. No.277225/2024 - Application for directions)

WITH
SLP(Crl) No. 9576/2024 (II-C)
(IA No.154655/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.154656/2024-EXEMPTION FROM FILING O.T.)

Date : 11-12-2024 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

For Petitioner(s) Mr. Vikram Chaudhri, Sr. Adv.
Mr. Rajat Bhardwaj, AOR
Mrs. Ankita M. Bhardwaj, Adv.
Mr. Kaustubh Khanna, Adv.
Mr. Saurav Kekroda, Adv.
Ms. Arveen Sekhon, Adv.
Mr. Rishi Sehgal, Adv.
Mr. Muskan Khurana, Adv.

[SLP (Crl.) No.9576/2024] Mr. Sudhir Naagar, AOR
Mr. Manish Baidwan, Adv.

Mr. Arun Kumar Nagar, Adv.
Mr. Ankit Sharma, Adv.

For Respondent(s) Mr. Suryaprakash V.Raju, A.S.G.
Mr. Zoheb Hussain, Adv.
Mr. Annam Venkatesh, Adv.
Mr. Arkaj Kumar, Adv.
Mr. Vivek Gurnani, Adv.
Mr. Sushil Raaja, Adv.
Mr. Samrat Goswami, Adv.
Mr. Animesh Upadhyay, Adv.
Mr. Arvind Kumar Sharma, AOR
Ms. Aditi Singh, Adv.
Mr. Anand Kirti, Adv.
Ms. Deepika Gahlot, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals are allowed in terms of the signed order.

The operative portion of the signed order reads thus:

"The Special Court shall enlarge the appellants on bail on appropriate terms and conditions including condition of abiding by the undertakings furnished by them.

We make it clear that if the hearing of the complaint is delayed due to any act or omission on the part of the appellants, it will be open for the respondent to apply for cancellation of bail before the Special Court."

Pending application(s), if any, shall stand disposed of.

I.A. No.277225/2024 - Application for directions is also disposed of.

(KAVITA PAHUJA)
ASTT. REGISTRAR-cum-PS

(ANU BHALLA)
COURT MASTER (NSH)

[Signed order is placed on the file]