

(2013) 06 AP CK 0074

In the Andhra Pradesh High Court

Case No : Criminal Petition No's. 1312 and 3632 of 2013

Bovilla Venkata Srinivas Reddy

APPELLANT

Vs

The State
 Galli Janardhan Reddy Vs The State of A.P.

RESPONDENT

Date of Decision : 20-06-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 161, 164
Mines and Minerals (Development and Regulation) Act, 1957 — Section 10(3), 11(5), 21(5)
Penal Code, 1860 (IPC) — Section 120B, 409, 420, 468, 471
Prevention of Corruption Act, 1988 — Section 13(1)(d), 13(2)

Citation : (2014) 1 ALD(Cri) 475

Hon'ble Judges : K.G. Shankar, J

Bench : Single Bench

Advocate : R. Rajesh Maddy, Rep. by C.V. Mohan Reddy, for the Appellant; P. Kesava Rao, SC for ACB-CBI, for the Respondent

Final Decision : Dismissed

Judgement

K.G. Shankar, J.—These two bail applications are disposed of through this common order since one of them is the bail application of the 1st accused and the other is the bail application of the 2nd accused in FIR in RC 17 (A)/2009-CBI/HYD. Accused No. 4 is M/s. Obulapuram Mining Company Private Limited. It is the case of the prosecution that accused No. 1 is manipulated to be the Managing Director of accused No. 4, that accused No. 2 is one of the official Directors of accused No. 4 albeit accused No. 2 more or less is the Proprietor of accused No. 4.

BACKGROUND.

2. When the Central Bureau of Investigation (the CBI, for short) registered the case against the accused 1 to 5 on 07-12-2009, accused No. 4 filed Writ Petition No. 27120 of 2009 challenging the authorisation of the Government to the CBI to investigate the case through orders in G.O.Ms. No. 467, dated 17-11-2009. A

learned single Judge of this Court granted interim stay of investigation through orders dated 14-12-2009. The interim stay was made absolute on 14-6-2010.

3. The CBI filed Writ Appeal No. 532 of 2010. On 16-10-2010, a Division Bench of this Court vacated the stay granted by the learned single Judge of this Court in W.P. No. 27120 of 2009. The Division Bench of this Court however directed the CBI to limit the investigation to the illegal mining activity of accused No. 4 but not to probe into the boundary dispute till the same is decided by the Committee constituted on the directions of the Supreme Court. The dispute consequently became confined to an area of 68.50 hectares known as Antar Gangamma Konda. The prosecution alleged that accused No. 4 in connivance with the accused 1 and 2 conspired with three public servants, who are the accused 3, 5 and 6, to procure a lease in its favour in preference to 60 other contenders. Accused No. 7 is said to be the Personal Assistant of accused No. 2.

4. The case of the prosecution is that accused No. 4 never exploited the mining in the disputed land but brought the mineral from the State of Karnataka and misdeclared that the mineral was mined in the leased area. It is also the case that accused No. 4 obtained permits and exported the mineral through the redeclaration and also contrary to the undertaking that the very mine was taken on lease for "captive" mining i.e. for personal use. Accused No. 7 allegedly assisted the accused 2 and 4 to procure mineral from the State of Karnataka through illegal means including intimidation of some of the other mine owners. As much as Rs. 884.13 Crores is said to be the wrongful loss caused by accused No. 4 and others to the Government through the illegal mining activity.

CHARGE-SHEETS:

5. The prosecution laid as many as three charge-sheets. The first of the charge-sheets was laid on 03-12-2011. It was laid against accused 1 to 5 only. The trial court took cognizance of the same on 04-01-2012. The offences levelled against various accused are under Sections 409, 420, 468, 471 and 120-B, IPC and u/s 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988. On 30-3-2012, the second charge-sheet known as the first supplementary charge-sheet was filed against accused No. 6. On 15-5-2012, the trial court took cognizance of the first supplementary charge-sheet against accused No. 6.

6. Accused No. 7 surrendered before the trial court in the case registered by the CBI in respect of the alleged illegal mining in the State of Karnataka on 20-3-2012. On the same day, the CBI filed a Memo impleading accused No. 7 in the present case also. Albeit the CBI filed an application for production of accused No. 7 through a P.T. Warrant, the CBI took active steps only in October, 2012. In fact, accused No. 7 was in Police Custody for some time. Ultimately on 02-01-2013, the second supplementary charge-sheet was laid by the CBI against accused No. 7. On 10-01-2013, the trial court took cognizance of the second supplementary charge-sheet. Subsequently, some of the accused were enlarged on bail. The accused 1 and 2 continued to remain in jail.

7. The point for consideration is whether the petitioners, who are the accused 1 and 2, deserve to be enlarged on bail and if so, on what terms?

8. Point:- Before going further, it may be noticed that there are as many as 247 witnesses and 688 documents in all from the combination of the charge-sheet, the first supplementary charge-sheet and the second supplementary charge-sheet. One of the grounds of the learned counsel for the petitioners is that assuming that the trial commences forthwith, it may not be completed in a short time and that it would be against all principles of criminal jurisprudence to leave the accused 1 and 2 in incarceration till the complete disposal of the case. It is also submitted on behalf of the petitioners that in the facts and nature of the case, even the trial may not commence forthwith as various accused are moving petitions for discharge before the trial court and that till the trial court considers and disposes of such discharge petitions and till revisions preferred therefrom either by the accused or by the prosecution are disposed of before the appellate courts, there is no possibility of commencement of trial. Sri C.V. Mohan Reddy, learned Senior Counsel representing accused No. 2 and Sri V. Surender Rao, learned counsel for accused No. 1, sought for the consideration of the applications of the petitioners in this background. It may also be pointed out that neither of the accused is seeking bail on the plea of mercy. They are seeking for bail if not demanding for bail by invoking their statutory and Constitutional rights.

9. The charge sheet itself gave the gist of the allegations at the beginning of the charge sheet. The prosecution admits that its investigation is confined to the alleged illegal mining activity of A.4 and others and not matters touching the boundary disputes. M/s. Obulapuram Mining Company Private Limited (OMCPL, for short) is A.4. It was granted three mining leases viz., a) an area of 25.98 Ha with lease period from 19.02.2002 to 25.04.2017; b) 39.50 Ha for the period from 05.10.2006 to 04.10.2026 and c) 68.50 Ha for the period from 18.06.2007 to 17.06.2027. M/s. Bellari Iron Ore Private Limited (BIOPL, for short) has been granted leasing rights over 27.12 Ha for the period from 19.05.1998 till 18.05.2018.

10. A.4 who is the holder of mining rights in 68.50 Ha in Anthargangamma Konda area allegedly shifted the boundaries of the leased lands with a view to criminally encroach unallotted area to commit the offence of illegal mining. It is also the case of the prosecution that A.4 formed illegal mining in the occupied areas and in the reserved forest area which is outside the leased area. A.4 despatched 29.32 lakhs metric tonnes of iron ore from the leased site to give an appearance that the ore was extracted from the leased site. A.4 also allegedly resorted to illegal dumping of iron ore in the adjacent reserved forest area. In the process of improper fixation of location of the mining area, A.4 and other accused allegedly entered into a criminal conspiracy with public servants. The accused allegedly destroyed Sugamma Devi Temple located in the reserved forest near the leased property with an intention to carry out illegal mining in that area.

This is the sum and substance of the prosecution case.

11. It is alleged by Sri P. Keshava Rao, learned standing counsel for CBI that A.2 is the virtual owner of A.4 and that after investigation was started into the illegal mining activity of A.4, A.1 was deliberately brought in as the Managing Director of A.4 with a view to screen the liability of A.2 and that both the accused are involved in a deep-rooted conspiracy together with public servants. The learned counsel for the two petitioners partly argued on merits of the case contending at the same time that it is not the appropriate stage or forum to consider the merits of the case. Their primary contention is that the petitioners deserve to be enlarged on bail as investigation has concluded.

12. The main resistance by the prosecution to the bail applications is three-fold viz., a) investigation has not been completed with reference to the confessions (called revelation) of A.7; b) there is every chance of the petitioners interfering with the investigation and threatening the witnesses if they are enlarged on bail; and c) the petitioners do not deserve to be enlarged on bail as prima facie case is made out against the petitioners for a very and high grave economic offence which also involved element of moral turpitude. It may be made clear at this stage that although three mining leases were awarded in favour of A.4 and another mining lease is awarded in favour of the BIOPL, the petitioners are involved in the present case in respect of Anthargangamma Konda mining lease only in an extent of 68.50 Ha. The case of the prosecution is that A.4 never exploited the leased lands and that it brought mineral from other areas and exported the same from the leased premises as if the mineral was procured from the leased premises.

13. The learned senior counsel for A.2 contended that if the contention of the prosecution is proved, Government of Andhra Pradesh stands benefited by the same as A.4 pays royalty for the mineral exported and that the Government of Andhra Pradesh, therefore, cannot have any grouse against A.4. On the other hand, the learned Standing Counsel for the prosecution submitted that lease was proposed to be granted for captive purposes and not for export purposes and that exporting the mineral is violative of the purpose for which the lease was sought.

14. G.O.Ms. No. 151, Industries and Commerce (M-III) Department, dated 18.06.2007 was issued by A.6. A.4 applied to the Government on 31.05.2007 seeking lease hold rights over the area to exploit the iron ore for captive purpose by floating a special investment vehicle viz., Bramhani Industries Limited for setting up of an integrated steel plant. Thus, A.4 specifically sought for mining lease to use the mineral for captive purposes only. It is the case of the prosecution that on account of conspiracy between A.4 and the Government officials while the entire note file ran as if the lease was for captive purposes, A.6 issued G.O.Ms. No. 151, dated 18.06.2007 allowing lease hold rights to A.4 without the embargo that the lease rights were for captive purposes only. The prosecution alleged that on account of illegal activity of A.4, the Government of

Andhra Pradesh suffered financial loss to a tune of Rs. 884 crores as roughly quantified by the Government.

15. The learned standing counsel for the prosecution submitted that A.1 filed an ante-dated board resolution before the Registrar of Companies to screen A.2 from liability. He pointed out that Registrar of Companies in fact imposed penalty for late submission of the board resolution. The learned counsel for A.1 contended that even assuming that A.1 falsified records by producing spurious ante-dated board resolution, it would be an offence punishable under the provisions of the Companies Act and that it would be inappropriate to insist that A.1 shall remain in jail till the trial is completed. He also pointed out that the offence under the Companies Act in this context would be fine only and that at best A.1 is name lender and nothing more. He contended that A.1 did not indulge in any misdeeds or illegal activity.

16. The learned counsel for A.1 further submitted that there was no allegation that A.1 exhibited tendency to interfere with the investigation and that the only serious offence levelled against A.1 is u/s 409 IPC for which the usual punishment does not exceed three years, albeit the same is punishable with life imprisonment. He also submitted that in view of the contention of the prosecution that A.4 never exploited the mining in the lease-hold premises, A.4 and consequently A.1 and A.2 cannot be charged with the offence u/s. 409 IPC for bringing mineral from outside to Andhra Pradesh and transporting the same from the leased premises.

17. I do not consider that the contention of the learned counsel for A.1 in this context can be accepted. It is the case of the prosecution that A.1 is the close associate of A.2. Whether A.2 is enlarged on bail or not, if A.1 is enlarged on bail, A.2 may use A.1 for intimidation of the witnesses and for intermeddling the investigation. Whether the apprehension is fairly substantiated indeed shall be examined a little latter. The mere fact that there is no allegation against A.1 that A.1 exhibited tendency to interfere with the investigation cannot be a ground to enlarge A.1 on bail at this stage.

18. Similarly, bringing mineral from other places and transporting the same from the leased premises also cannot be said to be an instance of gain to the Government of Andhra Pradesh. It is not the case of the prosecution that mineral from Karnataka State was brought and sold as if it was exploited in Anthargangamma Konda area. The case of the prosecution is that the mine in Anthargangamma Konda was not exploited and that mineral brought from elsewhere was shown as if it was exploited from the leased premises.

19. The learned standing counsel for the prosecution pointed out that while G.O.Ms. No. 151 was issued on 18.06.2007, A.4 entered into a lease agreement with the Government on 19.06.2007. On 20.06.2007 itself an application was filed by A.4 to permit it to lift 1000 metric tonnes of iron ore. He submitted that heavy machinery could not be used at the leased site for environmental reasons

and that even otherwise it would be impossible for A.4 to extricate 1000 metric tonnes of iron ore within one day after entering into the lease agreement on 19.06.2007. It is the contention of the standing counsel for the prosecution that the very claim of A.4 and the claim of A.1 and A.2 are proved to be false prima facie from the proximity of the lease agreement and the application by A.4 to lift the exploited iron ore.

20. The learned counsel for the petitioners-accused contended that the Enforcement Directorate has attached about Rs. 1000 crores of property of A.4 which is more than the loss of Rs. 884.13 crores as claimed by the Government. Their stand is that even if the petitioners are enlarged on bail, the financial interest of the State is still protected by the attachments effected by the Enforcement Directorate. The learned standing counsel for the prosecution, on the other hand, submitted that the rough estimation of Rs. 884.13 crores in fact would become doubled on account of the cost of iron ore and that even the financial interest of the State Government consequently is not protected by the attachment of the Enforcement Directorate. However, whether the financial interest of the prosecutor is protected or not, I am afraid, is not a consideration for granting or refusing to grant bail to the accused, I therefore consider this aspect irrelevant for determination of the bail application. Consequently, the contention of the learned senior counsel for A.1 that Section 21(5) of the Mines and Minerals (Development Regulation) Act, 1957 (MMDR Act, for short) has no relevance in the present context.

21. The petitioners allegedly committed the offences under Sections 409, 420, 468 and 471 r/w Sec. 120-B IPC and also Section 13(2) r/w Sec. 13(1)(d) of the Prevention of Corruption Act, 1988. It is contended by the learned counsel for A.2 that A.2 is a nonfunctional Director of A.4 company. It is his further case that assuming that false or antedated Form-32 under the Companies Act was filed by A.1, A.2 cannot be prosecuted for the alleged criminal activity on the part of A.1. It may be noticed that it is not the case of the prosecution that A.1 acted independent of A.2 for his own benefit by filing a false antedated resolution of the Board of Directors of A.4 before the Registrar of Companies for his personal gain. It is the case of the prosecution that A.1 has chosen to do so to screen A.2 from the liability. Where A.1 acts for the benefit of A.2, it can prima facie be inferred that A.1 was acting on behalf of A.2 at the behest of A.2 and not altruistically.

22. The learned counsel submitted that the charge sheet did not show the details regarding the conspiracy. The learned standing counsel for CBI, however, has pointed out several instances of conspiracy on the part of A.1 & A.2 pointing out that the file in the Government moved with great speed on account of the corrupt practices and conspiracy adopted by A.1 & A.2 with the other government servants. It is also the case of the prosecution that while A.2 sought for mining lease for captive purposes and while the entire note file ran on the same lines, G.O.Ms. No. 151 was issued by A.6 granting lease without the

embargo that it should be used for captive purposes only. The prosecution alleges that the same was on account of conspiracy and corrupt practices resorted to by A.1 & A.2.

23. At one stage, the learned standing counsel for the prosecution referred to the bail scam in which A.2 was involved. A judge of the ACB Court allegedly granted bail to A.2 in this case for monetary consideration. Subsequently, the bail granted to A.2 was cancelled by this Court. That apart, the learned Judge of ACB Court, who granted bail to A.2 and others, are facing trial in the bail scam case. As rightly submitted by the learned counsel for A.1 & A.2, the bail scam has no relevance for granting or refusing to grant bail in the present case. The learned standing counsel, however, made it clear that he had resorted to the bail scam case to show the strength and attitude of A.1 & A.2 and to the extent to which they can go and expressed apprehension that in the event the accused are enlarged on bail, they are likely to reach the witnesses and attempt to destroy or influence the evidence that is gathered by the prosecution against the accused. I appreciate the contention of the learned standing counsel albeit I make it clear that granting bail or refusing to grant bail shall not depend upon the bail scam case.

24. The learned senior counsel for A.2 inter alia contended that granting of mining lease is not solely within the jurisdiction of the State Government. He submitted that the proviso to Section 11(5) of the MMDR Act ordains that prior approval of the Central Government shall be obtained before passing any order of granting mining leases in respect of the minerals specified in the first schedule. Admittedly, iron ore is one of the minerals mentioned in the first schedule. It is the contention of the learned senior counsel for A.2 that the question of A.2 resorted to corrupt practices with the officials of the State Government and influenced them for grant of mining licence would not arise, where the Central Government shall approve before the mining lease is granted. It may, however, be noticed that Section 10(3) of the Act makes it clear that it is the State Government, which grants or refuses to grant the permit, licence or lease, as the case may be. It, therefore, cannot be claimed by the accused that it is only the Central Government, which grants licence and that it would be illogical to hold that the accused influenced employees of the State Government to procure such a mining licence.

25. Added to it, it is the case of the prosecution that this file moved with posthaste in the State Government on account of the corrupt practices of the accused and that whether the prior permission of the Central Government is necessary for grant of mining lease or otherwise, the conduct of the accused would show prima facie that they had committed the offences levelled against them.

26. It is contended by the learned senior counsel for A.2 that reasons were assigned by the government functionaries for preferring A.4 to other applicants in granting mining lease. Nevertheless, A.1 & A.2 would be guilty if it is found

that the grant of licence was on account of corrupt practices adopted by A.1 & A.2. Therefore, whether the State Government gave reasons for preferring A.4 to other applicants is primarily irrelevant for consideration of granting or refusing to grant bail to A.1 & A.2.

27. The learned senior counsel for A.2 also contended that once mining lease is granted, there cannot be any power to the State Government and even to the Central Government for that matter to direct the lessee as to how the mineral should be used after payment of the royalty. However, when the very lease was on the ground that it was granted for captive purposes, the argument of the learned senior counsel for A.2 cannot be sustained. The learned senior counsel for A.2 also maintained that once royalty was paid for the extracted mineral, the mineral becomes the property of A.4. Indeed, there cannot be any dispute regarding this contention of the learned senior counsel for A.2. However, how the extracted mineral is used is the question. The prosecution alleged that the extracted mineral was never used for the captive purposes. It is also contended by the learned counsel for the accused that the only authority of the State Government was to make a recommendation and it should be for the Government of India to examine and accord permission. The Act, on the other hand, envisages that it is the State Government which sanctions the lease hold rights albeit after the approval of the Central Government.

28. After obtaining the mining lease, it would appear that the lessee shall obtain mining plan from Indian Bureau of Mines. It appears to be a statutory duty of the lessee to obtain mining plan accordingly. The learned counsel for A.2 contended that the question of resorting to mining operations without mining plan would not arise. It is the allegation of the prosecution that a forged certificate was submitted to the Indian Bureau of Mines by A.4 that the mineral was of commercial quality with a view to secure the mining leases. One Murthy, who was an officer in the Lab deposed about the false certificates. It is the contention of the learned counsel for the accused that Murthy, however, did not refer to complicity of A.2 either in his Sec. 161 Cr.P.C. statement or in his Sec. 164 Cr.P.C. statement and that A.2 cannot be considered to have committed the offence of forgery. It is the case of the prosecution that A.2 was behind the whole episode and that it is A.2 who is virtually the proprietor of A.4. Merely because A.2's name did not figure in the evidence of Murthy, I cannot hold that the prosecution prima facie failed in establishing the offence of forgery against A.2.

29. The learned senior counsel for A.2 asserted that there was no need for A.2 to create a false certificate that the mineral was of commercial quality since commercial quality of the mineral is not the basis on which the Indian Bureau of Mines grants permit. Whether it is needed to resort to forgery or otherwise is not the consideration; but whether any documents were forged or otherwise falls for consideration of the Court. This is not the stage to go into this question about the absence of the prima facie case against A.2.

30. The learned standing counsel for CBI opposed the bail applications mainly on the grounds that investigation is pending against A.7 and that release of A.2 may affect the investigation. The learned senior counsel for A.2 submitted that the charge sheet against A.7 was filed on 02.01.2013 and A.7 was in police custody for a considerable time. He submitted that police interrogated A.7 regarding illegal money A.4 received. It is contended that A.1 & A.2 cannot be ordered to remain in incarceration on the ground that investigation is pending in respect of the confession made by A.7.

31. The learned standing counsel pointed out that there is any amount of necessity to keep A.1 & A.2 for the time being in jail, since several items of confession (revelations) were made by A.7 and that there is need for the investigating agency to verify the confession made by A.7. It is also the contention of the learned standing counsel that these revelations directly touch upon the activities of A.1 & A.2, so much so, it is not a fit stage to release A.1 & A.2 on bail. The learned senior counsel for A.2 as well as learned counsel for A.1. and the learned standing counsel for CBI placed reliance upon Sanjay Chandra Vs. CBI, . It is observed in that case that the object of bail is to secure the appearance of the accused person at the trial through reasonable amount of bail and that the object of bail is neither punitive nor preventive. The Supreme Court further observed that the deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The Supreme Court also held that any imprisonment before conviction has a substantial punitive content and that it would be improper for any court to refuse to grant bail as a mark of disapproval of former conduct whether the accused had been convicted for it or not or to refuse bail to an un-convicted person for the purpose of giving him a taste of imprisonment as a lesson.

32. It is emphasized by the learned counsel for the accused that the prosecution is trying to impose punishment upon the accused before the conviction by resisting the application of the accused for grant of bail. Sanjay Chandra is a bail application in 2G Spectrum Scam case. In that case, bail was granted to the applicant. The learned counsel for the accused contended that as the charge sheet was already filed, the Supreme Court considered it appropriate to enlarge the petitioner on bail and that as the charge sheet in the present case was already filed, it would be appropriate to enlarge the petitioner on bail.

33. The learned standing counsel for CBI, on the other hand, contended that bail was not granted on the ground that the charge sheet was filed and for various other reasons. He further submitted that in the present case, there is a threat of the accused interfering with the investigation, so much so, it is not a fit case for grant of bail. The learned counsel for A.1 and learned senior counsel for A.2 submitted that the petitioners have been in jail for over two years and that it would not appropriate to continue them in jail where there is no prospect of the case going for trial at this stage. I have already pointed out that there are as

many as 247 witnesses, 688 documents and three charge sheets. Added to it, some of the accused have filed discharge petitions. There cannot be any doubt that the trial in this case cannot be commenced within a short time, let alone completed shortly. Whether to grant bail to the accused in such circumstances is the question.

34. In Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and Another, the Supreme Court observed that there was no justification in granting bail on the ground that the accused has been in custody for over 3 Vi years or that there was no likelihood of conclusion of the trial in the near future and that the bail application deserves to be disposed of on merits. The Supreme Court pointed out that some of the factors which are required to be considered by the court for grant of bail a) the nature of the accusation and the severity of the punishment in case of conviction and the nature of supporting evidence, b) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant and c) prima facie satisfaction of the Court in support of the charge.

35. In Kalyan Chandra Sarkar etc. Vs. Rajesh Ranjan @ Pappu Yadav and Another, it was observed that even persons accused of non-bailable offences are entitled to bail if the court concludes that the prosecution has failed to establish a prima facie case against him and that there is need to release such a person on bail where fact situation requires to do so. In that case, the Supreme Court further observed that each case must rest on its own facts and the similarity of facts in one case cannot be used to bear in mind the conclusion of fact in another case.

36. In State Vs. Amarmani Tripathi, it was observed:

It is well settled that the matters to be considered in an application for bail are (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of Bail....

37. The learned standing counsel for CBI contended that there are instances of complaints by witnesses that threat was administered to them by the accused in this case. The CBI placed reliance upon the complaints of C. Shashi Kumar dated 10.11.2011, H. Mallikarjuna, dt. 15.10.2011 and V. Anjaneya dated 05.01.2011 as well as the complaint of S. Sai Ram Singh dated 12.12.2011. The learned senior counsel for A.2 contended that these complaints were not placed before the Court when the accused sought for bail on earlier occasions and that these complaints therefore shall be considered to be false. He also gave reasons why the complaints cannot be accepted pointing out that one of the complainants was a former employee of A.4 who was removed from service for misconduct, one of

the complainants was a rival businessman in the same field and another complainant belonged to a rival political party. I am afraid that the genuineness of these complainants cannot be gone into at this stage. These witnesses are not before the Court. I have no alternative but to go by the complaints filed by the complainants referred to above at this stage.

38. The learned standing counsel contended that the offence committed by the accused is an economic offence of grave magnitude causing loss of huge monies to the nation and that when there is no changed circumstances between the earlier petition and the present petition, the petitioners do not deserve to be enlarged on bail at this stage. His main contention is that the CBI is in the process of finding out the end users of the huge money swindled by A.1 & A.2. He also pointed out that it is not as though a threat to the witnesses should exist every day and a threat to any of the witnesses automatically disentitles the accused for grant of bail.

39. The magnitude of the offence in the present case is a minimum of Rs. 884 crores if not more. The learned standing counsel for CBI contended that prima facie case is made out which is evident from the very charge sheet and the voluminous evidence that is put forth by CBI before the trial Court. He also submitted that there is reasonable apprehension that the accused are likely to tamper with the evidence if they are enlarged on bail.

40. Admittedly, A.2 was an M.L.C. He was a former Minister. He is a man of very high standing in the society. As pointed out by the learned senior counsel for A.2, A.2 is a leading personality of the society with vast financial resources and considerable influence in the society. Such a person can resort to threat, coercion or inducement of witnesses and investigating agency even if such a person is inside the jail. If such a powerful individual is outside the jail, he can create devastation to the very edifices of the prosecution. A.1 as a person close to A.2 also stands on the same footing as A.2. Enlargement of such accused on bail may lead to interference not only with the investigation and the trial of the case but also with the very economy of the country. There is prima facie proof for such apprehension from the complaints of as many as four persons. Added to it, it is the case of the CBI that further investigation is going on to verify the revelations of A.7. What would be the result of such investigation cannot be visualized at this stage.

41. In view of the above circumstances, where A.2 is a man of considerable power if not enormous influence and where A.1 is an associate of A.2, who allegedly was going to the extent of inculcating himself to exonerate A.2 from criminal liability and in view of the threats that were allegedly administered to some of the witnesses and in view of the crucial stage of the investigation on the basis of the confession by A.7, I do not consider that it is the appropriate stage where the petitioners can be enlarged on bail. In view of the circumstances of the case, which I consider differ from 2G Spectrum Case, I deem it appropriate to reject the bail applications of A.1 & A.2 at this stage. I see no merits in these

bail applications for the reasons set out. The bail applications accordingly are found to be devoid of merits and are dismissed.