(2018) 05 DEL CK 0018

In the Delhi High Court

Case No : BAIL APPLN. 477 of 2018

RAJESH JAIN APPELLANT

Vs

STATE (THR. LD.APP) RESPONDENT

Date of Decision : 02-05-2018

Acts Referred:

Indian Penal Code, 1860 — Section 406,409,420,468,471,188,120B,467,109,201,34
Prevention of Corruption Act, 1988 — Section 7, 8, 11, 12, 13
Code Of Criminal Procedure, 1973 — Section 161

Citation : (2018) 05 DEL CK 0018

Hon'ble Judges : MUKTA GUPTA

Bench : Single Bench

Advocate : Sudhir Nandrajog ,Manoj Ohri, Akhil Mital, L.N. Rao,Nawab Singh Jaglan, Abhimanyu Singh,Rajiv Ranjan Raj, Sanjeev Arora,Akshay Sachdeva ,Archana Maheshwari, Rahul Mehra,Rajni Gupta, Jamal Akhtar, Chaitanya Gosain

Final Decision : Disposed Of

Judgement

Yogesh Mittal,

Rajesh Jain

Raj Kumar Goel (RKG)

meeting with Kamal Jain

Manager at GK Branch, where RT 1. RKG was maintaining

and Dinesh Bhola for

conversion of was maintaining his accounts and 8 accounts in the name of

his demonetized currency, thus, known to RT, Kamal Jain and dummy firms at Kotak

who contacted Ashish Dinesh Bhola. MahindraBank Naya Bazar

Kumar. 2. Yogesh Mittal is having Branch and 4 accounts in ICICI

2. Ashish Kumar accounts in Ambadeep Branch and Bank, Fatehpuri Branch.

organize d a meeting with thus, known to Ashish Kumar.

RKG who presented 3. Yogesh Mittal and RKG 2. He deposited

himself on behalf of are in same type of business and demonetizedcurrency in his

Yogesh Mittal. were known to each other. accounts in home branch from

3. The deal was finaliz ed 10.11.2016 to13.11.2016 and

at a commission of 35%.

thereafter at Ambadeep Branch

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crores as commission.

Sales, b) PS Sales, c) MS the name of Sunil Kumar and

5. The demon etized Enterprises, d) Nikhil Enterprises, e) Dinesh Kumar.

currency was deposited in KS Traders, etc.

accounts of firms of RKG 2. About rupees 8 crores have been 4. He also deposited the

and Yogesh Mittal and transferred to the account of firms of commission amount of Ashish

DDs were issued. Rajesh Jain namely Srinivas Sales Kumar in his accounts and got

6. The commission Corporation and his son Prateek Jain issued DDs in the name of

amount was deposited in namely Jai Jinendra Sales Seema Bai, Madan Kumar, etc.

dummy firms of Yogesh Corporation through RTGS/NEFT

Mittal. from the accounts of firms namely

7.68 DDsw ere

Yashoda Sales and PS Sales.

recovered from the 3. The money received in accounts

possession of Kamal Jain.

of above firms has been utilized to

fulfil the liabilities of the firm.

8.FIR No.205/2016 registered at PS Crime Branch relates to collections of ☐ 38 crores from Dinesh Bhola, employee of Rohit Tandon which was

deposited in the various accounts of Yogesh Mittal and Raj Kumar Goel wherein 35% commission was charged out of which 10% commission was of

Ashish Kumar, 10% of Yogesh Mittal, 10% of Raj Kumar Goel, 4% of the remaining persons and 1% for miscellaneous expenses. Thus, it is the

case of prosecution that 65% of ☐ 38 crores were deposited in the accounts of the different firms of Yogesh Mittal and Raj Kumar Goel and thereafter

demand drafts were prepared in fictitious names. Further, 35% of ☐ 38 crores of demonetized currency i.e. approximately ☐ 13.30 crores as

commission was deposited in various accounts of Yogesh Mittal and Raj Kumar Goel and their associates. Role of the petitioner is not concerned

with the balance 65% amount which was deposited in the various accounts of Yogesh Mittal and Raj Kumar Goel and their associates, whereafter

drafts were got prepared in the first name of various employees of Rohit Tandon to be encashed later on. Role assigned to the petitioner is confined

to the amount of approximately ☐ 8 crores in the two firms of Rajesh Jain, that is, Shrivinas Sales Corporation and Jai Jinendra Sales received from

Yashoda Sales and P.S. Sales which was then transferred to M/s Harsh International Khaini Pvt. Ltd. of Govind Babu and M/s H.B.Manufacturing

Industries Pvt. Ltd. of Naveen Somani. In this regard it would be relevant to note the statements of Govind Babu and Naveen Somani recorded under

Section 161 Cr.P.C.

9.As per Govind Babu, he was doing the business of tobacco and was running the company Harsh International Pvt. Ltd. where he had 60%

shareholding. In March/April, 2010 he met Yogesh Mittal in his office who sought the dealership of his product. For some time he supplied material

to Yogesh Mittal without an agreement however in April, 2010 first agreement was entered into between the firms Star Contracts Pvt. Ltd. of Yogesh

Mittal with Harsh International Khaini Pvt.Ltd. wherein Yogesh Mittal was the C& F agency. This business continued till September, 2013. In

February, 2011 Yogesh Mittal started his business with another firm Paras Trading Company. Later they entered into an agreement with

Inderprashtha Trading Pvt. Ltd. whose proprietor was Mohd.Naushad but the entire transaction was done by Yogesh Mittal. He has further given the

names of various firms of Yogesh Mittal with which he did business, that is, Akul Exports Pvt., Virukti Enterprises, Jai Jinendra Enterprises, Shrinivas

Sales Corporation. He stated that though the proprietor of these firms were someone else but he was actually doing the business with Yogesh Mittal

and that he would produce the ledger accounts of all his businesses with Yogesh Mittal in the year 2016-2017 in the various firms namely Shrinivas

Sales Corporation, Jai Jinendra Sales Corporation, GSK Enterprise, Yashoda Marketing, Sujay Marketing Company with his company Harsh

International Pvt. Ltd.

10.Even Naveen Somani stated that since June, 2009 his firm H.B. MFG Industries Ltd. was doing business with Yogesh Mittal initially in the name of

the firm Kanak Traders, then Akula Marketing Company, thereafter Aman Traders followed by Ratnakar Enterprises, Vistar Exports Pvt. Ltd., Sujay

Marketing Company, Shrinivas Sales Corporation, Yanti Marketing and Jai Jinendra Corporation. Though these firms were in the name of some other

individuals however, the business was conducted by Yogesh Mittal.

11.From the statements of these two witnesses of the prosecution, it is evident that 10% commission of Yogesh Mittal was deposited in the various

firms from where approximately ☐ 8 crores was transferred to the two firms of petitioner namely Shrinivas Enterprises and Jai Jinendra Sales

Corporation over to the firms/companies of Govind Babu and Naveen

Somani in discharge of the liability of Yogesh Mittal. Petitioner, if at all is a beneficiary for a sum of ☐ 2 lakhs the petitioner has no role in the deposit

of cash in the accounts of Raj Kumar Goel or Yogesh Mittal from which demand drafts were made which were recovered from Kamal Jain, CA of

Rohit Tandon. As noted above Rohit Tandon has not been arrested in this FIR and charge sheet in the above noted FIR was filed against Rohit

Tandon, Kamal Jain and Dinesh Bhola, the main accused without arrest and on appearance before the Court, bail was granted to them. Further

Yogesh Mittal has also been granted bail though for technical reasons. Evidence is documentary in nature and the trial is likely to take some time.

Hence, this Court deems it fit to grant bail to the petitioner. It is, therefore, directed that the petitioner be released on bail on his furnishing a personal

bond in the sum of ☐ 1 lakhs with one surety of the like amount to the satisfaction of the learned Trial Court/CMM further subject to the condition that the petitioner will not leave the country without prior permission of the Court concerned and in case of change of residential address the same will be intimated to the Court concerned.

12.Petition is disposed of.

13.Order dasti.

