

(2003) 03 DEL CK 0016

Delhi High Court

Case No: Criminal M. (M) No"s. 894 and 944/03

Saood Ahmed Siddiqui
and Jawad Ahmed
Siddiqui

APPELLANT

Vs

State (NCT of Delhi)

RESPONDENT

Date of Decision: March 27, 2003

Citation: (2003) 3 AD 185 : (2003) 104 DLT 2000 : (2003) 68 DRJ 407 : (2003) 2 JCC 637

Hon'ble Judges: Ramesh Chandra Chopra, J

Bench: Single Bench

Advocate: Bahar U. Barqi, in Crl.MM No. 944/2003 and H.R. Khan Suhel and Vinod Singh Rawat, in Crl.MM No. 894/200, for the Appellant; Pawan Sharma, for the Respondent

Final Decision: Dismissed

Judgement

R.C. Chopra, J.

These two petitions u/s 439 of the Code of Criminal Procedure (hereinafter referred to as "the Code" only) are for grant of bail to the petitioners who are facing trial in case FIR No. 43/2000 under Sections 420/409/406/468/471/120-B IPC registered at PS New Friends Colony, New Delhi and investigated by Economic Offences Wing, Crime Branch, New Delhi.

2. The facts relevant for the disposal of these two petitions, briefly stated, are that the petitioner Jawad Ahmed Siddiqui was the Chairman-cum-Managing Director of M/s Al-Falah Group of Companies and petitioner Saood Ahmed Siddiqui was one of its Directors. According to the prosecution in furtherance of a criminal conspiracy, both the petitioners and their co-accused induced a large number of investors to make deposits in their companies. The amount alleged to be cheated/mis-appropriated is alleged to be about Rs. 7.5 crores. One complainant K.R. Singh alone, who has been examined as PW1 and has fully supported the prosecution case, was cheated to the tune of Rs. 95 lakhs. It is alleged that the petitioners induced large number of persons to make deposits in their group of

companies but later on by forging their signatures and fabricating documents converted those deposits into shares of their companies. Investigations revealed that the signatures of some of the investors on various papers were forged to convert the deposits into shares. The reports from FSL confirm that the signatures of the investors were forged. The deposits were also received in the name of some of the companies which were non-existent. The petitioners diverted large funds received from the investors into their personal accounts and then mis-appropriated the same.

3. Learned counsel for the petitioners have argued that most of the public witnesses have supported the accused persons and as such they are entitled to be enlarged on bail. It is also argued that petitioner Jawed Ahmed Siddiqui is in custody for the last about 37 months and petitioner Saood Ahmed Siddiqui for about 38 months whereas the maximum imprisonment that may be awarded to the petitioners by the learned M.M is three years only. Relying upon various judgments of this Court and the Apex Court in which the accused were granted bail, it is prayed that the petitioner"s applications may be allowed and they be ordered to be released on bail. It is noticed that in none of the cases in which bail was granted to the accused for similar offences, the amount misappropriated was as large as it is in the present case.

4. Learned counsel for the State on the other hand has opposed the applications of the petitioners on the ground that huge amounts deposited by the public have been mis-appropriated by the petitioners and they have indulged in forgeries as well as fabrications for misappropriating the funds. It is also pointed out that only three or four PWs. remain to be examined and since the trial is at its final stage the petitioners may not be shown any indulgence in the matter of bail. It is also submitted that it is not necessary that the petitioners will be sentenced to imprisonment of three years only inasmuch as by invoking Section 325 of the Code, the learned M.M may make over the case to CMM for imposing higher punishment upon them in view of misappropriation of heavy amount.

5. After considering the submissions made by learned counsel for the parties, this Court is of the opinion that taking into consideration the enormous amount which was allegedly cheated/mis-appropriated by the petitioners, the learned MM may not impose a sentence of three years imprisonment only upon petitioners and may resort to Section 325 of the Code for awarding higher punishment to them. Therefore, it cannot be said that the petitioners have already undergone the period of sentence which may be imposed upon them. Moreover when the trial has reached the final stage and is likely to be concluded soon the enlargement of the petitioners on bail at this stage may result in their fleeing from justice to avoid higher punishment and facing recovery proceedings at the hands of the complainants. The next date of hearing before the Trial Court is 7.4.2003 and since only three-four prosecution witnesses remain to be examined, the trial is likely to be

concluded very soon.

6. Considering the serious nature of the offence and the gravity of the allegations against the petitioners, this Court is of the considered view that it is not a fit case for grant of bail to the petitioners at this stage of the prosecution case. The prosecution is however directed to conclude its evidence by 31.5.2003. In case the prosecution evidence is not concluded by the said date, the petitioners may move this Court again for bail in accordance with law.

7. With these directions the petitions stand disposed of.