GAHC010118002021

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Bail Appln./1894/2021

MD. MOFIDUL HAQUE
SON OF MD. ESHAOQUE ALI
R/O VILL- TUKTUKI UNDER DHING POLICE STATION IN THE DIST. OF NAGAON, ASSAM, PIN-782123

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A K BHATTACHARYYA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

Date of hearing : **02.09.2021**
Date of Judgment : **07.09.2021**

JUDGMENT & ORDER (ORAL)

Heard Shri A.K. Bhattacharyya, learned Senior Counsel assisted by Shri D.K. Bhattacharyya, learned counsel for the applicant, namely, Md. Mofidul Haque, who has filed

this bail application under Section 439 of the Cr.P.C. praying for bail in connection with NDPS Case No. 17/2021 arising out of Dhing PS Case No.505(N) / 2020 under Sections 17(b) / 18(c) / 20(b) (ii) (C) / 21(C) / 25 / 27A / 29(1) of the Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act). The State is represented by Shri B. Sharma, learned Addl. Public Prosecutor, Assam.

2. Pursuant to the orders of this Court, the scanned copies of the LCR have been received.

3. Shri Bhattacharyya, learned Senior Counsel for the applicant fairly submits at the outset that on two earlier occasions, the prayer for bail of the petitioner have been rejected. The learned Senior Counsel, however, submits that there were certain points which were not brought to the notice of this Court and those points are relevant for coming to a just decision. It is submitted that as on 01.09.2021, the applicant has completed 267 days in custody and he was arrested merely on suspicion as he was physically present in the house of the prime accused-Habil Ali during the search and seizure.

4. It is submitted that the investigation has been completed in the meantime and the charge-sheet has been filed. By referring to the copies which have been furnished to the accused, it has been submitted that the applicant is a chance visitor to the house of Md. Habil Ali, who is his maternal uncle. It is submitted that other than his mere presence, nothing incriminating has been assigned to him. It is further submitted that the case record would reveal that nothing has been recovered from the possession of the applicant and even during the investigation, the police remand was sought only for Habil Ali. The only connection is a mobile phone which allegedly belonged to the applicant. However, there is nothing on record to show that any investigation was made towards examination of the call records or any other similar forensic examination to connect the applicant with the offence.

5. The learned Senior Counsel has submitted that there are certain legal aspects which are also required to be considered. It is submitted that in the instant case, the informant is himself the Investigating Officer and there is a legal bar in this regard. It is further submitted that the FIR itself is not admissible as it was registered after the investigation was over. The learned Senior Counsel, however, fairly admits that a GD Entry was there which led to the

investigation. The applicant can at best be termed as a seizure witness and the main accused is the maternal uncle Shri Habil Ali.

6. While drawing the attention of this Court to paragraph 9 of the application, the learned Senior Counsel has tried to explain the reason of presence of the applicant in the place of occurrence as the applicant is the nephew of the principal accused Habil Ali. It is further submitted that the case record would also reveal that though there is indication of receipt of secret information regarding the involvement of the applicant, no investigation was done in that regard. By drawing the attention of this Court to the GE Entry, it is submitted that there is no mention about the name of the applicant. The inaction of the investigating authorities to make an attempt to intercept of the two accomplices has also been questioned.

7. By referring to the provisions of Section 42 of the NDPS Act, more particularly second proviso thereto, it is submitted that the reasons to believe that a search warrant and authorization cannot be obtained, have to be recorded in writing. This part of the law has been submitted to be deviated from.

8. It has also been submitted that the statements of the independent witnesses do not implicate the applicant. The Senior Counsel accordingly submits that there are no materials to justify the action of having the applicant in custody during the period of trial.

9. In support of his submission, Shri Bhattacharyya, the learned Senior Counsel has placed reliance upon the following decisions of the Hon'ble Supreme Court:-

1. AIR 1955 SC 196 (*H.N. Rishbud Vs. State of Delhi*)

2. AIR 1959 SC 707 (*State of M.P. Vs. Mubarak Ali*)

3. (1980) 1 SCC 81 (*Hussainara Khatoon & Ors. Vs. Home Secretary, State of Bihar*)

4. (2011) 1 SCC 694 (*Siddharam Satlingappa Mhetre Vs. State of Maharashtra & Ors.*)

10. In the case of *H.M. Rishbud (Supra),* the Hon'ble Supreme Court has laid down that the prescription of law for investigation has to be mandatorily followed. The said observation was made in the context of Section 156 of the Cr.P.C..

11. In the case of *Mubarak Ali (Supra),* the meaning of investigation has been explained.

12. The case of *Hussainara Khatoon (Supra)* has been cited to bring home the concept of

right to speedy trial as a part of Article 21 of the Constitution of India.

13. In the case of *Siddharam Mhetre (Supra),* it has been laid down that the discretion of the Court is required to be exercised on the basis of the available materials and the facts of the case. The entire discussion was however in the context of anticipatory bail.

14. Therefore, it is submitted that the present prayer for bail be granted by taking into consideration both the length of detention as well as lack of *prima facie* materials.

15. Vehemently objecting to such prayer, Shri B. Sharma, learned Addl. Public Prosecutor, Assam submits that the earlier rejection of the bail prayer of the applicant being on merits and in absence of any new or fresh grounds, the subsequent bail petition is not maintainable. He has further submitted that the order of rejection dated 29.06.2021 passed in Bail Appln./1162/2021 is an exhaustive one whereby all aspects of the matter have been duly considered including the scanned copy of the case records. It is therefore submitted that in absence of any new or fresh grounds, the scope of reconsideration becomes restricted. It is also submitted that this Court had also referred to the embargo embodied in Section 37 of the NDPS Act.

16. On merits, the learned Addl. Public Prosecutor has submitted that admittedly the narcotics / contraband which have been seized is of a huge quantity. The cash recovered is also huge and examination of the bank accounts revealed transaction of crores of rupees. The magnitude of the seized contraband and also the currency clearly indicates that it is an organized crime with the involvement of a number of persons and cannot be handiwork of a single individual. Further, the FIR clearly states the name of the applicant and there are materials to suggest that there was prior information regarding the accused coming to the place of occurrence.

17. Shri Sharma, the learned Addl. PP has further submitted that the earlier order of rejection dated 29.06.2021 had also taken into consideration the restrictions laid down in Section 37 of the Act. For ready reference the relevant extracts of the order dated 29.06.2021 is quoted hereinbelow-

> "*10. The NDPS Act is a special Act with an inbuilt mechanism in the form of Section 37 relating to bail. For ready reference, Section 37 is extracted hereinbelow:*

"37. Offences to be cognizable and non-bailable

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), -

(a) Every offence punishable under this Act shall he cognizable;

(b) No person accused of an ***2****[offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless-*

(i) The Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) Where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

*(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974), or any other law for the time being in force on granting of bail.***"**

11. The said Act has introduced an additional restriction in the form of giving an opportunity to the Public Prosecutor and more importantly, the Court has to be satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence ***and*** *that he is not likely to commit any offence while on bail. Section 37 (2) makes it clear that the aforesaid limitations are in addition to the other limitations under the Cr.P.C or any other law for the time being in force, on grant of bail."*

18. The attention of this Court has been drawn to the charge-sheet, more specifically the Memo of Evidence which reveals that the applicant was arrested in connection with Mikirbheta P.S. Case No.223 / 2020 under Section 21(b) / 25 / 29 of the NDPS Act wherein charge-sheet was submitted on 06.08.2020 and the case is pending trial in the learned Court of the Special Judge, Morigaon. Reiterating the provisions of Section 37, more particularly Sub-Section (1)(b)(ii), Shri Sharma submits that the NDPS Act being special enactment which has an inbuilt mechanism with regard to bail has introduced two statutory restrictions before grant of bail apart from giving an opportunity to the Public Prosecutor. Those are:

(i) There has to be *prima facie* satisfaction regarding existence of reasonable

grounds that the accused is not guilty **and**

(ii) The accused is not likely to commit any offence while on bail.

It is submitted that there are being materials on record regarding the involvement of the petitioner in another case concerning NDPS Act itself in which charge-sheet have been submitted and the petitioner is facing trail, the restrictions will come into operation.

19. Dealing with the argument that the Informant and the Investigating Officer is one and the same person, Shri Sharma, the learned APP submits that the said ground is factually incorrect as it would be revealed from the FIR itself. While one Shri Pulak Kumar, Officer-in-Charge, Jajori Police Station is the Informant, the Investigating Officer is one Durga Kingkar Sarmah, Inspector of Police, Dhing Police Station.

20. It is also submitted that the NDPS Act being a special enactment which deals with socio economic offence, the period of detention is not material. In support of his submission, Shri Sharma, the learned APP places reliance upon the following case laws-

(i) (2004) 7 SCC 528 (*Kalyan Chandra Sarkar Vs. Rajesh Ranjan Alias Pappu Yadav & Anr.*)

(ii) (2017) 13 SCC 751 (*State of Bihar & Anr. Vs. Amit Kumar Alias Bachcha Rai*)

In the case of *Kalyan Chandra Sarkar (Supra)* the relevant factor for consideration before grant of bail have been discussed which includes reasonable apprehension of tampering and *prima facie* satisfaction in support of the charge. In the case of *Amit Kumar (Supra),* the Hon'ble Supreme Court was dealing with the subject of grant of bail involving socio economic offence wherein it has been laid down that stringent parameters are required to be followed.

21. Lastly, it is submitted that the argument that the applicant accused was present only by chance is not acceptable as the same is not a reasonable submission appealing to a prudent mind. The records indicate that there were information regarding the applicant coming to the place of occurrence which is the house of Habil Ali and a recce was also performed to ensure that there was no Police Checking. Therefore, the concept of constructive possession will come into play in the instant case.

22. The rival submissions made by the learned counsel for the parties have been duly considered and the materials before this Court including the scanned copies of the case records have been carefully examined.

23. Before venturing into the issue to be determined, this Court is reminded of the fact that on two earlier occasions, namely order dated 11.05.2021 passed in Bail Appln./708/2021 and order dated 29.06.2021 passed in Bail Appln./1162/2021, the prayer for bail by the present petitioner has been consecutively rejected. Though, the first order dated 11.05.2021 was a rejection more on technical ground by giving liberty to the petitioner (with another accused) to approach the learned Court below, the second order dated 29.06.2021 was on the merits of the case. The relevant extracts of the order dated 29.06.2021 is quoted hereinbelow-

> "*12. In the instant case, it has been urged on behalf of the applicant that he is not connected and was only a Mason. However, in the trial court, it was submitted that the applicant was a driver. The aforesaid submission has to be examined from the point of view of the nature of the contraband seized. The record reveals that 2076 grams of heroin, 101.48 grams of cannabis, 977 gram of liquid opium and a huge quantity of cash of Rs. 10,70,690/- have been recovered along with 3 vehicles, 2 weighing machines and accounts book. The bank accounts of Habil Ali and his wife reveal transaction of crores of rupees.*
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> *13. The object and intent of Section 37 of the NDPS Act make it clear that there has to be a prima facie satisfaction that the accused not being guilty and that he is not likely to commit any offence while on bail. It reveals that there are two conditions and both the conditions are required to be fulfilled as expression used is 'and' not 'or'. Considering the nature of the seizure made and the huge amount of cash along with the bank transactions, this Court is of the opinion that enlarging the applicant on bail would be against the interest of society. In the case of* ***Shahabuddin*** *(supra), the Hon'ble Supreme Court has laid down in clear terms that interest of the society is a relevant factor to be taken into account while considering the prayer for bail. For ready reference, the relevant paragraphs of the said case are extracted hereinbelow:*
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> > *"10. This Court in Rajesh Ranjan Yadav @ Pappu Yadav v. CBI through its Director (2007) 1 SCC 70 balanced the fundamental right to individual liberty with the interest of*

the society in the following terms in paragraph 16 thereof:

> *"We are of the opinion that while it is true that Article 21 is of great importance because it enshrines the fundamental right to individual liberty, but at the same time a balance has to be struck between the right to individual liberty and the interest of society. No right can be absolute, and reasonable restrictions can be placed on them. While it is true that one of the considerations in deciding whether to grant bail to an accused or not is whether he has been in jail for a long time, the court has also to take into consideration other facts and circumstances, such as the interest of the society."*

11. In Ash Mohammad v. Shiv Raj Singh @ Lalla Babu and another (2012) 9 SCC 446, this Court in the same vein had observed that though the period of custody is a relevant factor, the same has to be weighed simultaneously with the totality of the circumstances and the criminal antecedents. That these are to be weighed in the scale of collective cry and desire and that societal concern has to be kept in view in juxtaposition to individual liberty, was underlined.

12. In the instant case, having regard to the recorded allegations against the respondent-accused and the overall factual scenario, we are of the view, having regard in particular to the present stage of the case in which the impugned order has been passed, that the High Court was not justified in granting bail on the considerations recorded. Qua the assertion that the respondent-accused was in judicial custody on the date on which the incident of murder in the earlier case had occurred, the judgment and order of the trial court convicting him has recorded the version of the brother of the deceased therein, that he had seen the respondent-accused participating in the offence. We refrain from elaborating further on this aspect as the said judgment and order of the trial court is presently sub judice in an appeal before the High Court.

13. On a careful perusal of the records of the case and considering all the aspects of the matter in question and having regard to the proved charges in the concerned cases, and the charges pending adjudication against the respondent-accused and further balancing the considerations of individual liberty and societal interest as well as the prescriptions and the perception of law regarding bail, it appears to us that the High Court has erred in granting bail to the respondent-accused without taking into consideration the overall facts otherwise having a bearing on the exercise of its discretion on the issue.

14. Judged on the entire conspectus of the attendant facts and circumstances and considering the stage of the present case before the trial court where charge-sheet has already been submitted, together with pending proceedings against the respondent-accused as on date, and his recorded antecedents in the various decisions of this Court,

we are thus unable to sustain the impugned order of the High Court granting bail to him.

15. In view of the above, the order passed by the High Court granting bail to the respondent-accused is set aside and the State is directed to take all consequential steps, inter alia, for taking him to custody forthwith."

14. Presence of the applicant at the site where the contraband as well as other incriminating materials, including huge amount of cash were seized has to be properly explained and that burden does not appear to be fully discharged in the instant case that the applicant did not know about the consignment. The corollary question which would also arise is that can the prime accused Habil Ali alone do the entire business? The presence of three vehicles at the place of seizure is also a relevant factor which appears to be consistent with the version of the prosecution."

24. This Court is of the opinion that after such elaborate discussion, there is hardly any scope for a fresh consideration. Be that as it may, as some new grounds have been cited, this Court would deal with the same as hereunder-

25. It is submitted on behalf of the applicant that the FIR itself is not admissible under the law as the informant and the Investigating Officer is the same. The said submission apart from being incorrect, which has been pointed out by the learned APP by referring to the case records that while the informant is one Shri Pulak Kumar, the Investigating Officer is one Shri Durga Kingkar Sarmah. However, even assuming that both the persons are the same, the issue has been laid to rest by a Constitutional Bench of the Hon'ble Supreme Court in a recent case namely, ***Mukesh Singh Vs. State (Narcotic Branch of Delhi)*** reported in ***AIR 2020 SC 4794,*** the relevant extracts of which is quoted hereinbelow-

"*Having doubted the correctness of the decision of this Court in the case of Mohan Lal v. State of Punjab reported in (2018) 17 SCC 627 taking the view that in case the investigation is conducted by the police officer who himself is the complainant, the trial is vitiated and the accused is entitled to acquittal, initially by order dated 17.01.2019 the matter was referred to a larger Bench consisting of three Judges. A three Judge Bench vide order dated 12.09.2019 has referred to a larger Bench of five Judges to consider the matter. That is why, the present matter is placed before the Bench consisting of five Judges.*

12. From the above discussion and for the reasons stated above, we conclude and answer the reference as under:

I. That the observations of this Court in the cases of Bhagwan Singh v. State of Rajasthan (1976) 1 SCC 15; Megha Singh v. State of Haryana (1996) 11 SCC 709; and State by Inspector of Police, NIB, Tamil Nadu v. Rajangam (2010) 15 SCC 369 and the acquittal of the accused by this Court on the ground that as the informant and the investigator was the same, it has vitiated the trial and the accused is entitled to acquittal are to be treated to be confined to their own facts. It cannot be said that in the aforesaid decisions, this Court laid down any general proposition of law that in each and every case where the informant is the investigator there is a bias caused to the accused and the entire prosecution case is to be disbelieved and the accused is entitled to acquittal;

II. In a case where the informant himself is the investigator, by that itself cannot be said that the investigation is vitiated on the ground of bias or the like factor. The question of bias or prejudice would depend upon the facts and circumstances of each case. Therefore, merely because the informant is the investigator, by that itself the investigation would not suffer the vice of unfairness or bias and therefore on the sole ground that informant is the investigator, the accused is not entitled to acquittal. The matter has to be decided on a case to case basis. A contrary decision of this Court in the case of Mohan Lal v. State of Punjab (2018) 17 SCC 627 and any other decision taking a contrary view that the informant cannot be the investigator and in such a case the accused is entitled to acquittal are not good law and they are specifically overruled."

26. The second submission is that the FIR otherwise also is not admissible as it was registered after the investigation was over. Shri Bhattacharyya, the learned Senior Counsel, however has fairly admitted that there was a GD Entry prior to the investigation. On perusal of the case records, it reveals that there was indeed a GD Entry No. 76 dated 05.12.2020 made in the Jajori Police Station.

27. It has been submitted that there is no allegation against the present applicant who was only the chance visitor to the place of occurrence which belong to his maternal uncle, who is the principal accused, Habil Ali. The said submission cannot be countenanced in view of the fact that there are materials in the case records to indicate that the applicant was on his way to the place of occurrence along with another accused and in fact a recce was also done by them to see if there was any Police Checking.

28. The submission regarding long period of detention of more than 267 days will not come to the aid of petitioner in view of the fact that the offence involved is a socio economic

one and also because of the consideration of the huge quantity of contraband as well as currency recovered from the place of occurrence. The submission regarding non examination of the mobile phone of the petitioner which has been seized can be taken up at the time of trial. The learned Senior Counsel has also emphasised on the fact as to why there was no interception done of the two accused while they were coming to the place of occurrence if there was actually any prior information. The aforesaid submission cannot be accepted as it would be within the domain of the investigating team regarding the place and time when an accused is required to be confronted. Further, the involvement of the accused would be easy to be established in the trial only when the accused are found in the place of occurrence rather than they being taken into custody from the road.

29. The submission regarding violation of the provision of the Section 42 of the NDPS Act more particularly the second proviso to the same cannot *prima facie* be accepted by the Court as the second proviso has a condition precedent that recording of the grounds of believe is a requirement only when the search warrant or authorisation cannot be obtained. However, in the instant case there is no allegation that the search and seizure was done without authorisation. In any case, the aforesaid point can be taken up at the stage of the trial.

30. The case law relied upon on behalf of the applicant, in the opinion of this Court would not come to the aid of the applicant. In the case of *H.M. Rishbud* (Supra), the prescription of law for investigation was held to be mandatory and the said observation was made in the context of Section 156 of the C.R.P.C. In the case of *Mubarak Ali (Supra),* the meaning of investigation has been explained. The case of *Hussainara Khatoon (Supra)* has been cited to bring home the concept of right to speedy trial as a part of Article 21 of the Constitution of India and there is no dispute to proposition. The case of *Siddharam Mhetre (Supra),* was on the subject of discretion of the Court which is required to be exercised on the basis of the available materials and the facts of the case. However, the entire discussion was however in the context of anticipatory bail.

31. As indicated in the earlier order of this Court dated 29.06.2021 passed in Bail Appln./1162/2021, this Court has already discussed the case of ***Chandrakeshwar Prasad Vs. State of Bihar***, reported in ***(2016) 9 SCC 443*** (Popularly known as Md. Sahabuddin Case), the extract of which has already been quoted above in this order. In the said case, it

has been held that right to bail cannot be an absolute one and reasonable restrictions can be placed on them and the duration as an undertrial has to be examined from the point of view of the interest of the society. In the said case, the Hon'ble Supreme Court had interfered with the order of the Hon'ble Patna High court granting bail to the accused who was a Member of the Parliament.

32. This Court also finds force in the submission of the learned APP regarding the operation of the statutory bar under Section 37 of the NDPS Act. The said Section which has been quoted above makes it clear that all the three conditions are conjunctive i.e. all the three conditions namely, (i) opportunity to the Public Prosecutor to oppose the bail (ii) prima facie satisfaction regarding availability of ground for believing that the accused is not guilty and (iii) he is not likely to commit any offence while on bail are required to be fulfilled. Though, the first condition is fulfilled and even assuming that the second condition is also fulfilled, the case records clearly demonstrates the involvement of the accused in another case involving the NDPS Act in which he has been charge sheeted and he has been facing trial. Since, the same is relevant factor, this Court is of the opinion that the privilege of bail is not entitled to by the applicant. As regards the length of detention, apart from the fact that the offence involved is the socio economic offence, the Hon'ble Supreme court in the Sahabuddin case, as indicated above has held that the duration as an under trial prisoner has to be examined from the point of view of the interest of the society.

33. In the case of *Amit Kumar (Supra)* the Hon'ble Supreme Court has held that socio economic offences constitute a class apart and are to be visited with a different approach. For ready reference, the relevant extract is quoted hereunder-

> "*13. We are also conscious that if undeserving candidates are allowed to top exams by corrupt means, not only will the society be deprived of deserving candidates, but it will be unfair for those students who have honestly worked hard for one whole year and are ultimately disentitled to a good rank by fraudulent practices prevalent in those examinations. It is well settled that socio-economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. Usually socio-economic offence has deep-rooted conspiracies affecting the moral fibre of the society and causing irreparable harm, needs to be considered seriously.*"

34. The Hon'ble Supreme Court in the case of ***Nimmagadda Prasad Vs. CBI***, reported in ***(2013) 7 SCC* 466** was dealing with a case for grant of bail to the appellant who was an accused under the Prevention of Corruption Act. The following observation would be made while refusing such prayer as the offence was a "white colour" offence.

> *"23. Unfortunately, in the last few years, the country has been seeing an alarming rise in white-collar crimes, which has affected the fiber of the country's economic structure Incontrovertibly, economic offences have serious repercussions on the development of the country as a whole. In State of Gujarat v. Mohanlal Jitamalji Porwal and Anr. [JT 1987 (1) SC 783:1987 (2) SCC 364] this Court, while considering a request of the prosecution for adducing additional evidence, inter alia, observed as under:*
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> > *"5.....The entire Community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the Community. A disregard for the interest of the Community can be manifested only at the cost of forfeiting the trust and faith of the Community in the system to administer justice in an even handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest...."*
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> *24. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the Legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the Court dealing with the grant of bail can only satisfy it as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.*
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> *25. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country."*

35. This Court is of the view that when such observation has been made in a "white colour" offence,

the present offence which is of much greater magnitude which has the propensity to destroy the entire generation, a strict view of the Court is required.

36. Under the aforesaid facts and circumstances, this Court is of the view that no case for grant of bail has been made out and accordingly, the present bail application is rejected. It is however, made clear that the observations made above are all tentative in nature and the findings are on *prima facie* satisfaction of this Court and none of the observation and the findings are to be taken into consideration at the time of trial so as to avoid causing of any prejudice to either of the parties.

37. The bail application stands disposed of.

JUDGE

Comparing Assistant