

C.B.I vs V.Vijay Sai Reddy on 9 May, 2013

Equivalent citations: AIR 2013 SUPREME COURT 2216, 2013 (7) SCC 452, 2013 AIR SCW 3038, AIR 2013 SC (CRIMINAL) 1407, 2014 (1) AJR 328, (2014) 1 CAL LJ 52, 2013 CRILR(SC MAH GUJ) 706, (2013) 3 CRILR(RAJ) 706, 2013 CRILR(SC&MP) 706, 2013 (3) SCC(CRI) 563, 2013 (7) SCALE 15, (2013) 2 CURCRIR 522, (2013) 2 DLT(CRL) 881, (2013) 2 UC 1293, (2013) 3 RECCRIR 252, (2013) 7 SCALE 15, (2013) 4 ALLCRILR 153, 2013 (2) ALD(CRL) 271

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Bench: P. Sathasivam, M.Y. Eqbal

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

1

2 CRIMINAL APPEAL NO. 729 OF 2013

3 (Arising out of SLP (Crl.) No. 5946 of 2012

Central Bureau of Investigation

.... Appellant(s)

Versus

V. Vijay Sai Reddy
Respondent(s)

....

J U D G M E N T

P. Sathasivam, J.

- 1) Leave granted.
- 2) This appeal is directed against the final judgment and order dated

13.06.2012 passed by the High Court of Judicature of Andhra Pradesh at Hyderabad in Criminal Petition No. 4387 of 2012, whereby the High Court dismissed the petition filed by the Central Bureau of Investigation (CBI)- the appellant herein seeking cancellation of bail granted to the respondent herein.

Brief facts:

3) On the orders of the High Court of Andhra Pradesh in Writ Petition Nos. 794, 6604 and 6979 of 2011 dated 10.08.2011, the CBI, Hyderabad, on 17.08.2011, registered a case being R.C. No. 19(A)/2011-CBI-Hyderabad dated 17.05.2011 under Sections 120-B read with Sections 409, 420 and 477-A of the Indian Penal Code, 1860 (in short 'IPC') and Section 13(2) read with Section 13(1)(c) and (d) of the Prevention of Corruption Act, 1988 (in short "the PC Act") against Y.S. Jaganmohan Reddy (A-1), Member of Parliament and 73 others.

(b) V. Vijay Sai Reddy-the respondent herein was named as an accused at Sl. No. 2 in the FIR dated 17.08.2011 (after the chargesheet was framed, he was arrayed as A-2 and hereinafter, he will be referred to as A-2). The respondent herein was the founder Director of M/s Jagathi Publications and was the Financial Advisor for the group of companies of Y.S. Jagan Mohan Reddy (A-1).

(c) He was arrested on 02.01.2012 and was in police custody from 04.01.2012 to 09.01.2012 and again from 11.01.2012 to 17.01.2012. On 27.01.2012, he filed an application for grant of regular bail under Section 437 of the Code of Criminal Procedure, 1973 (in short 'the Code') before the Court of the Special Judge for CBI Cases at Hyderabad. The Special Judge, by order dated 21.03.2012, dismissed his application for bail.

(d) During investigation, it was revealed that M/s Jagathi Publications Pvt. Ltd. was originally incorporated as a private limited company on 14.11.2006 and later converted into a public limited company on 12.01.2009. At the relevant time, the respondent herein was the founder Director of the Company and Y.S. Jagan Mohan Reddy (A-1) was designated as the Authorised Signatory to operate the Bank accounts of the Company. He was appointed as a Director and Chairman with effect from 21.06.2007. It is alleged that A-1 floated M/s Jagathi Publications Pvt. Ltd. with an objective of conducting media business with the ill-gotten wealth. Most of the shareholders were alleged to be the benamis of Y.S. Jagan Mohan Reddy (A-1). Further, as a quid pro quo to these investments, the benefits were received by various investors including the companies/individuals from the decisions of the State Government in allotment of lands for Special Economic Zones (SEZs), contracts for irrigation projects, special relaxations/permissions for real estate ventures, mines etc. It is further revealed that Y.S. Jaganmohan Reddy (A-1) laundered the bribe money by routing it through various individuals and companies and getting investments made by them in his companies at a high premium.

(e) After investigation, on 31.03.2012, the CBI filed first charge sheet against A-1 to A-13 including the respondent herein under Section 120-B read with Sections 409, 420 and 477-A of the IPC and Sections 13(2) read with Section 13(1)(c) and (d) of the PC Act in the Court of Special Judge for CBI

Cases, Hyderabad. On 02.04.2012, A-2 filed another application for grant of bail before the Special Judge. By order dated 13.04.2012, the Special Judge granted bail to A-2.

(f) Being aggrieved by the order dated 13.04.2012, the CBI filed Criminal Petition No. 3712 of 2012 before the High Court. The High Court, by order dated 20.04.2012, set aside the order dated 13.04.2012 and remanded the matter to the Court of Special Judge to consider the case of A-2 afresh. In the meantime, the Principal Special Judge for CBI Cases, Hyderabad took cognizance of the charge sheet dated 31.03.2012 against A-1 to A-13 which was numbered as CC No. 8 of 2012. On 30.04.2012, after hearing both the sides afresh in Criminal Misc. Petition No. 715 of 2012 for grant of bail, the very same Special Judge, who passed the earlier order dated 13.04.2012, granted bail to A-2.

(g) Aggrieved by the order dated 30.04.2012, the CBI filed Criminal Petition No. 4387 of 2012 before the High Court for cancellation of bail granted to A-2. In the meantime, the CBI filed third chargesheet with respect to the investment made by M/s Ramky Group of Companies. On 29.05.2012 and 30.05.2012, the Principal Special Judge for CBI Cases took cognizance of second and third chargesheet(s) which were numbered as CC Nos. 9 and 10 of 2012 respectively.

(h) The High Court, by order dated 13.06.2012, dismissed the petition filed by the CBI.

(i) Being aggrieved by the order of the High Court, the CBI-the appellant herein has preferred this appeal by way of special leave.

4) Heard Mr. Ashok Bhan, learned senior counsel for the appellant herein and Mr. Raju Ramachandran, learned senior counsel for the respondent herein.

5) It is useful to refer the order dated 10.08.2011 passed by the High Court ordering for CBI investigation wherein, in para 51, it is stated thus:

“51. Prima facie, it emerges from the record forming part of the writ petitions including pleadings of the parties that from May, 2004 onwards, respondent No. 52 floated number of companies wherein quid pro quo investments have been made out of the benefits received by the investors/beneficiaries from the decisions of the State Government in various forms like SEZs, irrigation contracts, relaxation/permission for real estate ventures, mines etc. besides payment of huge premium amounts paid in the shares and invested in the companies by such beneficiaries and the money so paid is nothing but corrupt money attracting Section 3 of the Prevention of Money Laundering Act, 2002. The investigation by the Income Tax authorities with respect to assessment orders of M/s Jagathi Publications for the year 2008-09 shows huge unexplained cash credit. Similarly, huge escalated face value of shares to the extent of 35 times also was not accepted by the Income Tax authorities and respondent No. 52 is directly or indirectly connected with some of the companies which are showing phenomenal growth and these facts make it necessary to ascertain the role of individuals/firms/public servants in the group companies of respondent No. 52.”

6) Based on the above directions, the CBI filed a charge sheet on 17.08.2011, initiated investigation and filed several charge-sheets and, according to learned senior counsel for the CBI, three more charge-sheets are yet to be filed. It is highlighted by learned senior counsel for the CBI that the present appellant (A-2) participated in the conspiracy and according to him, he is a key conspirator. He also highlighted that by threatening many businessmen, he made them close associates of Y.S. Jagan Mohan Reddy (A-1). He also highlighted that the present appellant intimidated many persons for investments in the concerns belonging to A-1.

Finally, he submitted that by branding him as Y.S. Jagan Mohan Reddy's (A-

1) man, he collected huge money by way of getting shares in the companies flouted by A-1. In addition to the same, Mr. Ashok Bhan submitted that out of eight charge-sheets, three charge-sheets are yet to be filed for which the CBI requires interrogation and collection of materials through him for which his bail has to be cancelled. By taking us through the reasoning of the Special Court for grant of bail and the affirmation order of the High Court, learned senior counsel for the CBI submitted that both the courts took note of irrelevant considerations, hence, both the orders are liable to be set aside.

7) As against the above contentions, Mr. Raju Ramachandran, learned senior counsel for the respondent, after taking us through the averments in the FIR, allegations in the charge-sheet(s) filed so far submitted that there is no material to show that the appellant has gained anything financially in the alleged transactions. He also pointed out that no investments were made in Jagathi Publications during the period when he was the Director. He further submitted that the State Government itself had passed various Government Orders to protect the Ministers and Secretaries who alleged to have been involved on the ground that everything was done in the course of normal business of the Government. When such is the position, according to him, the appellant being a Chartered Accountant, without any financial gain, the Special Judge was justified in granting him the bail. He also pointed out that even when the appellant was out, five charge-sheets have been filed and there is no impediment in finalizing the remaining three charge-sheets and he is willing to cooperate with the Agency by fulfilling all the conditions imposed by the Special Court and the High Court.

8) We have considered the rival contentions and perused all the relevant materials relied on by both the sides.

9) Let us consider the contentions put-forth by learned senior counsel for the CBI. It is settled by a series of decisions that if irrelevant materials have been taken into account or relevant materials have been kept out of consideration, the order granting bail to the accused cannot be sustained. In the same way, if there is specific allegation by the prosecution that the accused in question was a party to the criminal conspiracy, neither the Special Court nor the High Court is justified in granting bail to the said person. These principles have been reiterated vide *State of U.P. through CBI vs. Amarmani Tripathi*, (2005) 8 SCC 21, para 31, *Dinesh M.N. (S.P.) vs. State of Gujarat*, (2008) 5 SCC 66, para 27, *Narendra K. Amin (Dr.) vs. State of Gujarat and Another*, (2008) 13 SCC 584 para 27,

State of Maharashtra and Others vs. Dhanendra Shriram Bhurle and Others, (2009) 11 SCC 541, para 8, Central Bureau of Investigation, Hyderabad vs. Subramani Gopalakrishnan and Another, (2011) 5 SCC 296, para

25.

10) Keeping those principles in mind, let us consider the role played by the present respondent – V. Vijay Sai Reddy (A-2) as projected by the CBI. In the first charge-sheet, it is alleged as under:

i) V. Vijay Sai Reddy (A-2) was the founder Director of M/s Jagathi Publications Pvt. Ltd. (A-12) and is the Financial Advisor for Group Companies of Y.S. Jagan Mohan Reddy (A-1).

ii) V. Vijay Sai Reddy (A-2) in conspiracy with Y.S. Jagan Mohan Reddy (A-

1) to fix the premium of M/s Jagathi Publications Pvt. Ltd. at a high rate, provided false and exaggerated information to M/s Deloitte Touche Tohmatsu India Pvt. Ltd. and M/s Jagadisan & Co. and got evaluated M/s Jagathi Publications Pvt. Ltd.. In furtherance of the said conspiracy, V. Vijay Sai Reddy (A-2) unilaterally fixed the premium of M/s Jagathi Publications at Rs. 350/- per share for the sole purpose of soliciting huge amounts as investments.

iii) V. Vijay Sai Reddy (A-2) and Y.S. Jagan Mohan Reddy (A-1) were fully aware of their factual financial position before starting the media company which takes 5 to 6 years for break even to claim profits. In spite of this fact, V. Vijay Sai Reddy (A-2) prevailed over M/s Deloitte Touche Tohmatsu India Pvt. Ltd. by providing false inputs to exaggeratedly evaluate the fiscal status of M/s Jagathi Publications Pvt. Ltd. and also to ante-date the valuation report to suit the stealthy requirements of the company. Thus, Vijaya Sai Reddy (A-2) was instrumental in soliciting the premium @ Rs. 350/- of M/s Jagathi Publications Pvt. Ltd. without any basis.

iv) V. Vijay Sai Reddy (A-2) in furtherance of the criminal conspiracy, played a vital role in soliciting investments in the form of bribes as a quid pro quo from the individuals related to the MD of M/s Aurobindo Pharma Ltd. and the companies M/s Hetero Group Companies (A-4) and M/s Trident Life Sciences Ltd. (A-5).

v) By the above mentioned overt acts V. Vijay Sai Reddy (A-2) in furtherance of criminal conspiracy with remaining accused, has committed the offences under Section 120-B read with Sections 409, 420 and 468 IPC and thereby facilitated Y.S. Jagan Mohan Reddy (A-1) to reap undue benefit in the form of investments in his company from the beneficiaries mentioned above as a quid pro quo.

11) It is brought to our notice that M/s Jagathi Publications Private Limited was incorporated on 14.11.2006 as a Private Limited Company and was converted into a

Public Limited Company on 12.01.2009. M/s Jagathi Publications Private Limited represented by its the then Directors, Y.S. Jagan Mohan Reddy (A-1) and V. Vijay Sai Reddy (A-2) solicited investments from the general public although it was a private limited company in violation of the provisions of the Companies Act, 1956. It is contended by the CBI that the main intention of M/s Jagathi Publications Private Limited represented by the then Diectors A-1 and A-2 was to woo innocent investors to buy shares at high premiums by concealing the material facts. They cited several instances in the charge sheet.

12) In the second charge-sheet dated 23.04.2012, Y.S. Jagan Mohan Reddy (A-1), V. Vijay Sai Reddy (A-2) and M/s Jagathi Publications Private Limited are the main accused for the offences under Section 120-B read with Sections 420, 468 and 471 IPC and Section 9 of the PC Act. The third charge sheet was filed on 07.05.2012 regarding the investigation conducted in connection with the investments made by M/s Ramky Pharma City (I) Ltd.

in M/s Jagathi Publications Private Limited. According to the CBI, investigation revealed that Y.S. Jagan Mohan Reddy (A-1) in conspiracy with V. Vijay Sai Reddy (A-2) ensured causing of wrongful gain to M/s RPCIL represented by Ayodhya Rami Reddy (A-4) in the matter of reducing the green belt area from 250 mtrs. to 50 mtrs. by prevailing upon his father late Dr. Y.S. Rajasekhara Reddy, the then Chief Minister to take a decision to that effect during the meeting held on 23.11.2005. Based on the said decision, G. Venkat Ram Reddy (A-5), the then Vice Chairman, VUDA accorded approval to the layout plan of M/s RPCIL (A-6) with reduced green belt area confining it to 50 mtrs. in contravention to the decision dated 20.06.2005 and the G.O. No. 345 dated 30.06.2006 notifying the VUDA Master Plan 2021. In this way, A-6 obtained wrongful gain of 914 acres of land inside the Pharma City and by selling the land after dividing it into plots, A-6 obtained a wrongful gain of Rs. 133.74 crores. It is further pointed out that as a Financial Advisor and Founder Director of M/s Jagathi Publications Private Limited, the respondent herein played a very active role and as such he cannot be absolved himself from the conspiratorial role played by him in the affairs of M/s Jagathi Publications Private Limited and is liable for all the irregularities.

13) It is pointed out by the CBI that investigation is under progress regarding the transactions relating to Sandur Power Company which involved many foreign transactions and the present respondent V.Vijay Sai Reddy (A-

2) was the main person who dealt with all the foreign transactions for which evidence is available. It is also highlighted that V.Vijay Sai Reddy (A-2) has played a main role in pumping crores of money to M/s Jagathi Publications Private Limited through several companies like Artilligence Bio-Innovations Ltd., Bay Inland Finance Pvt. Ltd., Bhaskar Fund Management Pvt. Ltd., and other individuals based in Kolkata and Mumbai. Likewise, VANPIC's grant of mining lease and permits to several group of companies, the investigation is under progress and custodial interrogation from the appellant is required.

14) Mr. Ashok Bhan, learned senior counsel has pointed out that the Special Judge erroneously observed that the investigation has reached to a conclusion and based on such a wrong assumption enlarged him on bail.

15) According to the CBI, the investigation is still in progress in other separate and distinct offences. He also pointed out that the said conclusion is totally contrary to the record. By pointing out various facts and figures, he asserted that A-2 is an active member of the criminal conspiracy and releasing him at the stage of investigation would result in miscarriage of justice as the role played by him in the conspiracy is serious and grave in nature. The main grievance of the CBI is that when there was sufficient evidence on record and investigation is yet to be completed in many matters, grant of bail would defeat the proper investigation in the case.

16) Though we are not expressing any definite opinion about those allegations and it is for the trial Court to find out the acceptability or otherwise in the full fledged trial, we are of the view that in order to complete the investigation in respect of three more charge sheets, the presence of respondent (A-2) is required and cannot be ignored by treating him as Chartered Accountant only.

17) As mentioned earlier, five charge sheets have been filed so far and three more charge sheets are in the final stages and are yet to be filed. At the time of arguments, learned senior counsel for the CBI has brought to our notice that the last of the charge has been filed in the Dalmia Cements Ltd. issue on 08.04.2013 which is on the file of the Special Judge for the CBI Cases for taking cognizance. We have already noted the stand of the CBI insofar as the respondent herein is concerned, his relationship with the main accused Y.S. Jagan Mohan Reddy (A-1) his interest in M/s Jagathi Publications Private Limited etc. It is also seen and highlighted that respondent A-2 was engaged in Financial Consultant Company, namely M/s Deloitte Touche Tehmatsu India Private Limited and according to the CBI, he directed this Company to fudge and exaggerate fiscal status of M/s Jagathi Publications Private Limited. It is their claim that it is A-2 who was instrumental in soliciting the premium at Rs. 350 per share of M/s Jagathi publications Private Limited without any basis for actual share of Rs. 10 per share. It is pointed out that on the basis of this false rating of Jagathi Publications Private Limited of which A-2 was the Director, many more companies and individuals were made to invest their money by threat, intimidation, cheating and inducement. It is the specific stand of the CBI that these ratings were falsely projected by A-2.

18) It is also brought to our notice that investigation relating to M/s Sandur Power Company is in progress which involves investigation in foreign countries in which Y.S. Jaganmohan Reddy (A-1) was the Director. As per the investigation, respondent herein (A-2) was the main person, who facilitated formation of M/s Sandur Power Company Ltd.. There is also allegation that Sandur Power Company received huge amounts from two Mauritius based Companies and the source of those monies is being investigated speedily and efforts to trace the source are being done expeditiously. It is also brought to our notice that Letter of Rogatories have been sent to six foreign countries and they have furnished the status of LR's.

19) It is also the claim of the CBI that investigation is under progress regarding granting of mining lease of limestone to the extent of 2037.52 acres by the Government of Andhra Pradesh to

Raghuram Cements. It is highlighted that during the period under review, the CBI has collected 400 documents running into thousands of pages from various departments/banks and so far about 40 persons have been examined.

20) It is also highlighted that the investigation disclosed that respondent A-2 was nominated as a part time non-executive Director of Oriental Bank of Commerce by the Ministry of Finance vide notification dated 14.12.2006 based on the recommendation of late Dr. Y.S. Rajasekhara Reddy, the then Chief Minister of Andhra Pradesh and father of A-1. It is the assertion of the CBI that respondent A-2 was not only the direct beneficiary of the post of Director in a Nationalised Bank but was also a key conspirator and facilitated for fiddling with public money of the said bank. As the Director of the bank, he also facilitated a loan of Rs. 200 crores to A-1 without any security and was also appointed as a Member of Tirumala Tirupati Devasthanams.

21) It is pointed out that so far 110 witnesses have been examined and as many as 1382 documents running into several thousands of pages have been collected in respect of investment through paper companies based in Kolkata and Mumbai, popularly known as suit case companies. Even in the case of Indus Projects and Lepakshi Knowledge Hub Pvt. Ltd., according to the CBI, the role of respondent A-2 is being ascertained.

22) Finally, it is pointed out that the role of respondent (A-2) in matters of Raghuram Cements and Sandur Power are yet to be completed, hence, the presence of respondent herein (A-2), who is outside the judicial custody would definitely hamper the smooth investigation and blunt the due process of law through his deceptive and subtle manipulations to influence, intimidate and threaten the witnesses.

23) Though the CBI has annexed certain documents in support of the above claim, we are not looking into the same at this stage and if the charge sheet(s) is filed with reference to the same, it is for the Special Court to consider merit and demerits of the claim of the prosecution.

24) As pointed out by learned senior counsel for the CBI in para 25 of the impugned judgment, the High Court did not agree with the observation of the Special Judge that the investigation has reached to a conclusion. In fact, the High Court has concluded that the above finding is incorrect. In para 26 also, the High Court appreciated and accepted the stand of the CBI that it has been making investigation with regard to other distinct offences that are alleged in the FIR. Interestingly, the High Court has also not accepted the another reasoning of the Special Court for granting bail, namely, that the main accused A-1 and other beneficiaries have not been arrested by the investigating agency. In other words, the High Court has rightly concluded that the circumstance of not arresting the other accused itself cannot be a ground to grant bail. However, after finding fault with certain reasoning and conclusion of the Special Court in granting bail, the High Court has observed that the CBI has not placed any material before the Special Court to substantiate their stand. The Special Judge has also noted that when respondent herein (A-2) was released on bail on 13.04.2012 and again surrendered before the Court on 23.04.2012, there is no allegation against him that during this period, he tried to run away from the investigating agency or made any attempt to influence the witnesses. In this regard, learned senior counsel for the CBI has brought to our

notice the statement of one Gopalakrishnan Murali dated 20.06.2012. In his statement, in the penultimate paragraph, it is noted that on receipt of notice under Section 91 of the Code from CBI on 13.06.2012 the said deponent immediately contacted V. Vijay Sai Reddy (A-2) for his instructions. According to him, A-2 directed him not to part with any document/information to CBI and directed to approach the High Court of Andhra Pradesh through their legal advisors. Admittedly, he had not brought any information as required under the notice dated 13.06.2012 on the advise of the respondent herein (A-2). As rightly pointed out, there is no need to go to High Court to get specific direction for each and every thing. When the Investigating Officer is in need of certain documents/information for verification with reference to the investigation it is but proper to place all the materials under Section 91 of the Code. Likewise, further statement of one Shri Sanjay S. Mitra dated 07.12.2012 was pressed into service. When the attention was drawn to the said person pointing out that his replies are intended to protect directly the people involved in the above transactions including his Managing Director Puneet Dalmia and Vijay Sai Reddy (A-2), his answer was that he is an employee working with Dalmia for salary and he has indications from his management and indirectly from Vijay Sai Reddy (A-2) about not revealing the above transactions and he also informed the things having reservation about his future. These are a few samples pointed out by the counsel for the CBI.

25) Another relevant aspect as pointed out by learned senior counsel for the CBI that bail can be cancelled when lower court granted bail on irrelevant considerations. The High Court accepted the said proposition and observed that “though there appears to be some force in the contention of Shri Kesava Rao, learned standing counsel for the CBI that the Special Judge has taken into consideration certain factors which appear to be not relevant such as not arresting A-1 and certain other observations of learned Special Judge, such as investigation has been completed appear to be incorrect.” Unfortunately, after arriving such conclusion, particularly, criticizing the Special Judge, the High Court on an erroneous ground concluded that “it cannot be said that they are totally irrelevant circumstances, therefore, on that ground, I feel that the bail granted to the respondent cannot be cancelled”.

26) Finally, though it is claimed that respondent herein (A-2) being only a C.A. had rendered his professional advise, in the light of the various serious allegations against him, his nexus with the main accused A-1, contacts with many investors all over India prima facie it cannot be claimed that he acted only as a C.A. and nothing more. It is the assertion of the CBI that the respondent herein (A-2) is the brain behind the alleged economic offence of huge magnitude. The said assertion, in the light of the materials relied on before the Special Court and the High Court and placed in the course of argument before this Court, cannot be ignored lightly.

27) It is true that the Special Judge while granting bail imposed certain conditions and the High Court has also added some more additional conditions, however, taking note of few instances in which how the respondent has acted, it cannot be possible for the investigating agency to collect the remaining materials for the remaining three charge sheets to be filed. In such circumstances, we are satisfied firstly the Special Court took irrelevant materials for consideration for grant of bail and secondly, the High Court having arrived definite conclusion that several findings of Special court are unacceptable or irrelevant but ultimately affirmed the very same order of the special Judge granting

bail.

28) 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.

29) We have highlighted the above aspects to show that the High Court has mistakenly taken into account the irrelevant materials and kept out the relevant materials, which had to be considered for the grant of bail.

30) Taking note of the fact that cancellation of bail necessarily involves the review of a decision already made, it should always be exercised very sparingly by the court of law. 31) In the light of the above discussion, we are of the view that the special Judge committed an error in granting bail and the same was erroneously affirmed by the High Court.

32) Taking note of all the aspects discussed above, without expressing any opinion on the merits, we set aside both the orders of the Special Judge and the High Court granting bail to A-2 and allow the appeal filed by the CBI with a direction to complete all the investigation relating to the remaining three charge sheets and file appropriate report before the trial Court within a period of four months from today. Thereafter, the respondent herein is free to renew his prayer for bail before the trial Court and if any such petition is filed, the trial Court is free to consider the prayer for bail independently on its own merits without being influenced by the present appeal. During the course of hearing, it is brought to our notice that the marriage of the daughter of the respondent has been fixed for 26.05.2013. Taking note of the said aspect, we direct the respondent herein to surrender on or before 5-6-2013 before the Special Court for being sent to the custody.

33) The appeal is allowed.

.J .

(P. SATHASIVAM)

.J .

(M. YUSUF EQBAL)

NEW DELHI;
MAY 09, 2013.
