

SUPREME COURT OF INDIA

V.K. Sharma

Vs.

Union of India

(K.T. Thomas and D.P. Mohapatra JJ.)

28.03.2000

ORDER

1. We heard Shri Shanti Bhushan, learned senior counsel for the petitioner, Shri R.N. Trivedi, Additional Solicitor General and also all the other counsel who represented different States. Here is a very peculiar situation in which the petitioner, as sequel to the business transactions indulged in by him is now an accused for offences under Section 406, 409 and 420 and 120-B of the Indian Penal Code not in one case and not even a dozen of cases but in a large number of cases pending in different States (it is pointed out cases are pending in nine States). He has no grievance that when he applied for bail the order has not been granted in his favour in any particular case. None of the courts in any of the cases found it necessary to refuse bail to him. But in spite of getting such bail orders granted in his favour he remains in jail for the last sixteen months without being released out. The reason for that is - the jail authorities find it difficult to release him since production warrants reached them from other courts as for the petitioner. Naturally the jail authorities will, have to keep him in detention for producing him before the court in compliance with such production warrants. The unfortunate net result is that the petitioner, in spite of obtaining orders of bail in his favour, continues to languish in jail. He contends that his fundamental right ensured under Article 21 of the Constitution is very violently violated due to the peculiar situation which is developed.

2. Petition has filed this Writ Petition praying for the following reliefs:

- a) Grant a writ of Mandamus or any other appropriate writ, order or direction under Article 32 of the Constitution of India directing the Respondents to transfer all the F.I.R.s registered against the Petitioner by virtue of his being the Managing Director &/or. Director of the JVG Group of Companies listed in prayer Clause (d) and the cases in respect thereof pending before the different Courts of the country to the Court of MM, Patiala House, New Delhi and then consolidate them for the purpose of investigation, enquiry and trial.
- b) Grant a writ of Mandamus or any other appropriate writ, order or direction under Article 32 of the Constitution of India directing the Respondents that all the other cases in which the petitioner is arrayed as an accused shall be investigated, inquired into and tried alongwith the cases listed in Annexure P-20.
- c) Grant a writ of Mandamus or any other appropriate writ, order or direction under Article 32 of the Constitution of India directing the CBI to take over the investigation in respect of all the cases in which the petitioner and/or the JVG Group of Companies are arrayed as accused registered or to be

registered in different states all over India.

3. It is not possible for us to order that all his cases pending in different States should be consolidated into one and brought before one court. That would impose unwarranted and unnecessary hardships on the witnesses and investigating agency spread over to those different States. Nor are we inclined to order the Central Bureau of Investigation to take up the investigation in respect of all cases in which the petitioner and or the JVG group of companies are arrayed as accused.

4. Nonetheless, we exercised our judicial considerations seriously to find out a solution in the peculiar situation. We were benefitted by the arguments addressed by all the learned Counsel in this case. We, therefore, persuade ourselves to grant the following reliefs to the petitioner:

1. If the petitioner is arrested in connection with any criminal case in his capacity as Managing Director/Director of JVG group of companies the arresting officer shall release him on bail on his executing a bond to the satisfaction of the arresting officer.

2. Such relief shall be made after getting an assurance from him that he will be present in the court concerned on the days when his case is posted. However, we make it clear that it is open to the petitioner to apply to the court concerned for exempting him from personal appearance on condition that a counsel on his behalf would be present on such posting dates and he would not dispute his identity as the particular accused in that case, and further that he would make himself available on any date when his presence is imperatively needed in that court.

3. We permit the petitioner to move the appropriate high courts for bringing all the cases pending in different courts within the territorial jurisdiction of that high court to one single court or more than one court (depending upon the number of cases or the width of the area of the State is concerned).

4. This order will come into effect only if the petitioner would surrender his passport in this Court. Shri Shanti Bhushan, learned senior counsel expressed a doubt that petitioner would have already surrendered his passport before another court pursuant to the order passed. In that case he can satisfy the Registrar General of this Court by an affidavit of the situation and the Registrar General can intimate the jail authorities concerned of that position.

5. We make it clear that it is open to the investigating agency in any case to move for cancellation of bail if any such investigating agency finds that petitioner is misusing the liberty granted by this order.

5. In view of the above order we direct the jail authorities of the jail in which he is presently kept to release him forthwith on Registrar General of the Court intimating the jail authorities regarding the surrender of his passport as indicated above.

6. It is needless to say that this order will not be treated as a precedent and is passed only on the peculiar facts and circumstances of this case. The Writ Petitioner is disposed of accordingly.