

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 814/2020

**Judgment reserved on : 17.07.2020**

**Date of decision: 10.08 .2020**

MALVINDER MOHAN SINGH

..... Petitioner

Through: Mr.Kailash Vasdev, Sr. Advocate with  
Ms.Neoma Vasdev and Mr.Abhinav  
Mukerji, Advocates.

versus

STATE OF NCT OF DELHI & ANR

..... Respondents

Through: Mr.Rahul Mehra, Standing Counsel  
(Criminal), Mr.Chaitanya Gosain,  
Mr.Divyank Tyagi, Advs for R-1  
Mr.Amit Mahajan, CGSC with  
Ms.Mallika Jhiremath, Adv for R-2  
Ms.Surbhi Sharma and Ms.Aishwarya  
Singh, Advocates for complainant.

**CORAM:**

**HON'BLE MS. JUSTICE ANU MALHOTRA**

**JUDGMENT**

**ANU MALHOTRA, J.**

1. Vide the present petition, the prayers made by the petitioner are to the effect:-

***“(a) Issue an appropriate Writ/order/Direction quashing the minutes of the meeting of the High Powered Committee held on 28.03.2020; and***

***(b) Issue a Writ/order/Direction directing the Respondents to forthwith release the Petitioner on bail/parole presently lodged in custody in connection with FIR No. 50/2019 PS Economic Office Wing, Mandir Marg U/S 420/409/120B of the Indian Penal Code, 1860 dated 27.03.2019, ECIR No. 05/DLZO-II/2019 Dated: 24.07.2019 and FIR NO. 189/2019 PS Economic Office Wing, Mandir Marg U/S 409/120B IPC dated 23.09.2019 on such terms and conditions as this Hon’ble Court may deem fit and proper; and***

***(c) Issue such other appropriate writ, order or directions as this Hon’ble court may deem just and proper to issue in the circumstances of the case.”***

2. Along with the petition, there was CRL.M.A.6440/2020 filed on behalf of the petitioner seeking an urgent relief seeking that the minutes of meeting of the Hon’ble High Powered Committee of this Court dated 28.03.2020 be stayed and that the respondent be directed to release the petitioner on bail/parole on such terms and conditions as the Court may consider appropriate.

3. Vide order dated 15.05.2020, the prayer made by the petitioner seeking to be released on interim bail/parole,- was declined, however, vide paragraph 19 of the order dated 15.05.2020, it was expressly observed to the effect that nothing stated in the said order dated 15.05.2020 would amount to any expression on the merits or demerits of W.P.(CRL) 814/2020 nor would the dismissal of the prayer made by the petitioner seeking the grant of interim bail/parole, prevent the

petitioner from seeking redressal, if any, before the Hon'ble High Powered Committee of this Court by moving a representation on lines similar to observations made vide order dated 07.04.2020 of the Hon'ble Supreme Court in W.P.(C) Diary No.10829/2020 titled ***“Vishvendra Tomar Vs. Union of India & Ors.”***

4. Pursuant to proceedings dated 15.05.2020 in CRL.M.A.6440/2020, the petitioner submitted the representation before the Hon'ble High Powered Committee of this Court and vide minutes dated 20.06.2020, the Hon'ble High Powered Committee of this Court vide Item No.7(A) rejected the representation of the petitioner herein but observed to the effect that the applicant i.e. the petitioner herein was at liberty to file the bail application before the concerned Court, which as and when filed, would be considered on merits, in accordance with law.

5. During the course of the submissions that were made on 17.07.2020 on behalf of the petitioner, learned senior counsel for the petitioner confined the prayer made through the present petition to the prayer clause (a) submitting thus to the effect that in the event of prayer clause (a) being granted, the petitioner would be entitled to seek the grant of bail in terms thereof. The present petition is thus, now being dealt with only qua the prayer made by the petitioner seeking the quashing of the minutes of the meeting of the Hon'ble High Powered Committee of this Court held on 28.03.2020.

6. The allegations levelled against the petitioner herein through the alleged commission of economic offences *inter alia* punishable under

the PMLA Act, 2002 as also qua an offence punishable under Section 409 of the Indian Penal Code, 1860 which is punishable with the imprisonment for life or that which it may extend to ten years and to a fine. The investigation conducted in relation to the allegations against the petitioner relates to averments in relation to:-

(i) FIR No. 50/2019 dated 27.03.2019, PS Economic Offences Wing, Mandir Marg U/S 420/409/120B of the Indian Penal Code, 1860,

(ii) ECIR No. 05/DLZO-II/2019 dated 24.07.2019 under Sections 3, 4 of the PMLA Act, 2002 r/w Schedule-1 r/w Sections 420/120B of the Indian Penal Code, 1860, and;

(iii) FIR No. 189/2019 dated 23.09.2019, PS Economic Offences Wing, Mandir Marg U/S 409/120B Indian Penal Code, 1860,

the investigation in the said cases has thus, been conducted by the EOW i.e. the Economic Offences Wing.

7. Vide submissions made on 17.07.2020 as already observed hereinabove, the grievance of the petitioner is now confined only to the categorizations made by the Hon'ble High Powered Committee of this Court vide minutes dated 28.03.2020, which have since been reiterated vide minutes dated 18.04.2020, 18.05.2020, 20.06.2020 and 31.07.2020 of the Hon'ble High Powered Committee of this Court pursuant to directions of the Hon'ble Supreme Court dated 23.03.2020 in *Suo Moto Writ Petition (C) No.1/2020- IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS*, whereby, the Hon'ble Supreme Court in view of the raging corona pandemic, had been formed to determine

the class of prisoners that could be released on parole or on interim bail for such period as the Hon'ble High Powered Committee thought it appropriate and whereby the Hon'ble Supreme Court also left it open for the High Powered Committee of each State/Union Territory to determine the category of prisoners who should be released on parole or on interim bail, depending upon the nature of offence, number of years for which he/she shall be sentenced or the severity of the sentence that he/she is charged with and is facing trial or any other relevant factor, which the Committee considered appropriate.

8. Further, the Hon'ble Supreme Court vide order dated 13.04.2020 in *Suo Moto Writ Petition (C) No.1/2020- IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS* further clarified the order dated 23.03.2020 to the effect:-

**“We make it clear that we have not directed the States/Union Territories to compulsorily release the prisoners from their respective prisons. The purpose of our aforesaid order was to ensure that States/Union Territories to assess the situation in their prisons having regard to the outbreak of the present pandemic in the country and release certain prisoners and for that purpose to determine the category of prisoners to be released.”**

*We make it clear that the aforesaid order is intended to be implemented fully in letter and spirits.”*  
*(emphasis supplied)”*

and the Hon'ble High Powered Committee of this Court comprising of the Executive Chairperson of the State Legal Services Authority i.e. the Executive Chairperson of DSLSA, the Special Secretary Forum,

GNCTD, the Director General of Prison (s) and the Member Secretary of the DSLSA vide minutes dated 28.03.2020 vide Item No.3 stipulated to the effect:-

**“ITEM NO.3:- DETERMINING FRESH CATEGORY OF UNDER TRIAL PRISONERS WHO CAN BE RELEASED ON INTERIM BAIL’:-**

*Kanwal Jeet Arora, Member Secretary informed the Committee, that immediately on receipt of letter from Govt. of NCT of Delhi regarding formation of present Committee, he on being directed by Hon’ble Chairperson had requested D.G.(Prisons) through the letter dated 26.03.2020 to furnish requisite information for the impact analysis on the proposed relaxed criterion of under trial prisoners. The same is accordingly submitted.*

*The Members of the Committee discussed and deliberated upon the proposed category of prisoners, who may now be considered for grant of interim bail for **45 days** in view of the circumstances in which we are in preferably on ‘**Personal Bond**’:-*

*(i) Under trial prisoners (UTPs) who are facing trial in a case which prescribes a maximum sentence of 7 years or less; or*

*(ii) Even If, the UTP has more than one case and in all other cases, he is “on bail”, except the one for which he is being considered and the same prescribes punishment for 7 years or less; and if*

*(iii) UTP is in custody for a period of one month or more;*

*(iv) In case of Women UTP, if she is in custody for a period of 15 days or more;*

*Besides the UTPs falling in above categories, those inmates who are undergoing Civil Imprisonment can also be considered for ‘interim bail’ of **45 days**.*



***It has further been resolved that following category of UTPs, even if falling in the above criterion, should not be considered:-***

***(i) All inmates who are undergoing trial for intermediary/large quantity recovery under NDPS Act;***

***(ii) Those under trial prisoners who are facing trial under Section 4 & 6 of POCSO Act;***

***(iii) Those under trial prisoners who are facing trial for offences under section 376, 376A, 376B, 376C, 376D and 376E and Acid Attack;***

***(iv) Those UTPs who are foreign nationals; and***

***(v) Those under trial prisoners who are facing trial under Prevention of Corruption Act (PC Act)/ PMLA ; and***

***(vi) Cases investigated by CBI/ED/NIA/Special Cell Police and Terror related Cases, cases under Anti National Activities and Unlawful Activities(Prevention) Act etc.”***

9. Vide minutes dated 18.04.2020, the Hon'ble High Powered Committee of this Court reiterated the category of UTPs who ought not to be considered for the grant of interim bail which categories read to the effect:-

***“It has further been resolved that following category of UTPs, even if falling in the above criterion, should not be considered:-***

***(i) Those inmates who are undergoing trial for intermediary/large quantity recovery under NDPS Act;***

***(ii) Those under trial prisoners who are facing trial under Section 4 & 6 of POCSO Act;***

***(iii) Those under trial prisoners who are facing trial for offences under section 376, 376A, 376B, 376C, 376D and 376E and Acid Attack;***

*(iv) Those UTPs who are foreign nationals;*

*(v) Those under trial prisoners who are facing trial under Prevention of Corruption Act (PC Act) / PMLA, MCOCA; and*

*(vi) Cases investigated by CBI/ED/NIA/Special Cell of Delhi Police, Crime Branch, SFIO, Terror related Cases, cases under Anti-National Activities and Unlawful Activities (Prevention) Act etc.”*

10. To similar effect were the minutes of the Hon'ble High Powered Committee of this Court dated 18.05.2020 whereby, vide Item 6 of the said minutes, it was specifically reiterated to the effect:-

**“ITEM NO.6:- DETERMINING FRESH CATEGORY OF PRISONERS WHO CAN BE RELEASED ON INTERIM BAIL**

Members of the Committee have taken into consideration that on the basis of the criteria adopted earlier, as on date **3678** inmates/ convicts/UTPs have been released on **parole/interim bail**.

Kanwal Jeet Arora, Member Secretary, DSLSA has informed the Committee about the letter/representation dated 16.05.2020 wherein DG (Prisons) submitted that **first case of COVID-19 (Novel Corona Virus) positive** has been **detected in Delhi Prisons (Rohini Jail)**. He has informed that one inmate was admitted in DDU Hospital on 10.05.2020 for intestinal problem where he was operated. After operation, he was also tested for **COVID-19 (Novel Corona Virus)** on **11.05.2020** and was found **positive** on **13.05.2020**. It is also submitted by DG (Prisons) that before being admitted to DDU Hospital, this inmate, namely "**K**" was **sharing barrack** with **19 other inmates**, all of whom along with five jail staff were tested for **COVID-19 (Novel Corona Virus)**. He informed that as per the report received, **15**



**inmates and one staff have been found to be COVID-19 positive.**

In view of this situation vide his letter dated 16.05.2020, DG (Prisons) has requested that the criteria adopted earlier needs to be relaxed so as to further decongest the jails as still the present occupancy of the Jail exceeds the optimum capacity of the Jail.

In view of the prevailing situation and to prevent the spread of **COVID-19 (Novel Corona Virus)** and to ensure social distancing amongst prisoners, the Committee is of the opinion that the criteria needs to be **further relaxed** to give effect to directions of Hon'ble Supreme Court of India. On directions of Hon'ble Chairpersons, DG (Prisons) was requested to furnish the information, for the **impact analysis** qua the proposed relaxed criteria of UTPs. The same is accordingly submitted.

The Members of the Committee discussed the report submitted by DG (Prisons) vide his letter dated 16.05.2020 and **resolved** that prisoners falling in following criteria may now be considered for grant of interim bail for **45 days** in view of the circumstances in which we are in, preferably on '**Personal Bond**' :

(i) Under trial prisoners (UTPs) facing trial for a case under **Section 302 IPC** and are ***in jail for more than two years*** with no involvement in any other case;

(ii) Under trial prisoners (UTPs) facing trial for offence under **Section 304 IPC** and are ***in jail for more than one year*** with no involvement in ***any other case***;

(iii) Under trial prisoners (UTPs) facing trial in a case under **Section 307 or 308 IPC** and are ***in jail for more than six months*** with no involvement in ***any other case***;

(iv) Under trial prisoners (UTPs) facing trial/remand prisoners in ***Theft cases*** and are ***in jail for more than 15 days***;

(v) *Male Under trial prisoners (above 65 years of age)* facing trial in a case except the ones excluded hereunder and are *in jail for more than six months* with no involvement in *any other case*;

(vi) *Female Under trial prisoners (above 60 years of age)* facing trial in a case except the ones excluded hereunder and are *in jail for more than six months* with no involvement in *any other case*;

It has further been resolved that following category of UTPs, even if falling in the above criterion or the criteria adopted in the earlier Meetings, should not be considered :-

(i) *Those inmates who are undergoing trial for intermediary/ large quantity recovery under NDPS Act ;*

(ii) *Those under trial prisoners who are facing trial under Section 4 & 6 of POCSO Act;*

(iii) *Those under trial prisoners who are facing trial for offences under section 376, 376A, 376B, 376C, 376D and 376E and Acid Attack;*

(iv) *Those UTPs who are foreign nationals ;*

(v) *Those under trial prisoners who are facing trial under Prevention of Corruption Act (PC Act) / PMLA, MCOCA ;*

*and*

(vi) *Cases investigated by CBI/ED/NIA/Special Cell of Delhi Police, Crime Branch, SFIO, Terror related Cases, Riot cases, cases under Anti-National Activities and Unlawful Activities (Prevention) Act etc.*

DG (Prisons) has informed that on the basis of this new criterion, approximately **1500 - 1700 UTPs** would be benefited and their release would further **ease out** the Jail Population.

Chairperson has directed Member Secretary, DSLSA to take steps for having the applications of UTPs falling in the above relaxed criterion, be moved through the Panel Lawyers of DSLSA, annexing the copy of custody warrants with the applications.

The applications for interim bail of UTPs falling in abovementioned categories for being considered, should have **a certificate of good conduct** during their respective custody period **from Jail Superintendent** for him to qualify in the abovementioned category.

Chairperson of the Committee has directed Kanwal Jeet Arora, Member Secretary, Delhi State Legal Services Authority (DSLSA) to request District Judges to depute a **Designated Court/Special Additional Sessions Judge**, if feasible for hearing the applications for interim bail preferred by the panel lawyers of DSLSA on the basis of criteria laid down by this Committee, so as to have expeditious disposal of the applications. In the event of Court **being satisfied** that the under trial prisoners falling in the above mentioned criteria as well as the criteria adopted earlier, are to be released on interim bail, they may be released on **'Personal Bond'**, to the satisfaction of Jail Superintendent so as to implement the **social distancing policy** of the Government.

*It is clarified that the decision taken by this Committee for release of prisoners on "interim bail" vide criterion adopted in the meeting dated 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020 and the one adopted hereinabove today, shall in **no way** affect the rights of other UTPs, who **do not** stand covered under these categories, from invoking the jurisdiction of concerned courts for grant of regular / interim bail. The concerned courts on filing of applications by such UTPs may consider the same on merits, in accordance with law."*

*(emphasis supplied)*

11. As observed hereinabove, vide minutes dated 20.06.2020 of the Hon'ble High Powered Committee of this Court, the said minutes dated **28.03.2020, 18.04.2020 & 18.05.2020** were reiterated vide Item No.6 qua the categories or UTPs who ought not to be considered for the grant of interim bail/parole merely on the ground of the Covid-19 pandemic. Vide Item 6 of the minutes dated 31.07.2020 of the Hon'ble High Powered Committee of this Court, it was observed to the effect:-

“.....

*It is, however, made clear that this Committee for release of prisoners on “**interim Bail**” vide criterion adopted in the meetings dated 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020, 18.05.2020 and 20.06.2020, shall in **no way** affect the rights of other UTPs, who **do not** stand covered under these categories, from invoking the jurisdiction of concerned courts for grant of regular/interim bail. The concerned Courts on filing of applications by such UTPs may consider the same on merits, in accordance with law.*

.....”

12. The submission that has been made on behalf of the petitioner is to the effect that vide the minutes of the Hon'ble High Powered Committee of this Court, the categorization by way of exclusion of UTPs lodged in the jails in Delhi as under trial prisoners qua the alleged commission of offences in relation to which investigation has been conducted by the Directorate of Enforcement and of UTPs alleged to have committed economic offences from the purview of grant of interim bail/parole in view of the prevailing pandemic, is arbitrary, unjust, unfair and not on any reasonable basis and without any intelligible differentia for creating such classification, in as much as, the release of the UTPs in terms of the minutes of the Hon'ble

High Powered Committee of this Court pursuant to the directions of the Hon'ble Supreme Court vide order dated 23.03.2020 in *Suo Moto Writ Petition (C) No.1/2020- IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS* was because of the requirement of decongesting the jails in city and to prevent the inmates contracting the corona virus and that thus, the classification and categorization by the Hon'ble High Powered Committee of this Court not permitting the consideration of the grant of interim bail/parole in view of the prevailing pandemic to UTPs alleged to have committed economic offences, is wholly unconstitutional and that it is violative of the fundamental rights of the petitioner guaranteed under Articles 14 & 21 of the Constitution of India, in as much as, the UTPs too have the '*right to live*' as guaranteed under Article 21 of the Constitution of India.

13. During the course of the submissions that were made on behalf of the petitioner, it was further submitted to the effect that the Hon'ble High Powered Committee of this Court vide its minutes could not have supplanted the rights of UTPs for consideration of the grant of bail/parole which are available to such UTPs in terms of Section 437 & 439 of the Cr.P.C., 1973 and that the Hon'ble High Powered Committee could have only supplemented vide guidelines as to how interim bail/parole could be granted to the UTPs in view of the present pandemic.

14. Through his written submissions, the petitioner submits that the guidelines of the Hon'ble High Powered Committee have to be in



conformity with the substantive law and cannot supplant the substantive law and that no fetters can be placed for the grant of bail pretrial in the provisions of Sections any offence or class of offences 437/438/439 of the Code of Criminal Procedure, 1973 for any offence or class of offences and that whilst considering the grant of bail, the triple test is the presence and availability of the accused, nature of evidence involved and the factum of the applicant's/accused deep roots in the society and that thus, the criterion of the Hon'ble High Powered Committee excluding the class of alleged under trial economic offenders on being enlarged on bail, is erroneous.

15. The petitioner has submitted that the exercise undertaken by the Hon'ble High Powered Committee of this Court pursuant to the directions of the Hon'ble Supreme Court is to protect the sacrosanct constitutional right to life of a citizen under Article 21 of the Constitution and not merely to decongest prison cells simpliciter and that thus, under the present guidelines a class within a class has broadly been created amongst the pool of UTPs by segregating UTPs accused of offences covered by the general penal provisions (i.e IPC) and those being investigated by agencies like the Enforcement Directorate under the PMLA Act. *Inter alia* the petitioner has submitted that a sub-categorization has been sought to be made within those classes of UTPs who are suffering from a medical condition and thus, UTPs suffering from medical condition and accused for offences under IPC (as determined by the Committee) are to be treated differently from UTPs with a medical condition and who have been

accused in an offence with punishment over 7 (seven) years and/or alleged to be accused in a case being investigated by the special agencies such as the Enforcement Directorate. The petitioner thus submits that this sub-categorization within the class of under trial prisoners has been made, even though the impact of the virus is not confined to any class of under trials prisoners and can admittedly lead to death of any class of UTPs.

16. The petitioner further submits that the UTPs suffering from cardiovascular diseases or other complex health issues or comorbidities were not considered to be at “high risk” and therefore not eligible under the relaxed criteria, even though this classification is against established medical practice and protocols. *Inter alia* the petitioner submits that the “nature of the offence” and “gravity of the offence” does not appear to be the criteria adopted by the Hon’ble High Powered Committee of this Court since persons accused of offences under Section 302 IPC (murder) (carrying punishment upto life imprisonment) have been considered eligible as opposed to persons who have been accused of economic crimes under the PMLA Act (carrying maximum punishment of 7 years) and having caused no “bodily injury” to the society.

17. The petitioner has further submitted that the criteria prescribed by the Committee, promotes creation of a class within a class, that is, it seeks to sub-categorize UTPs who have only been “accused of” commission of an offence and have not yet even been charged or found guilty and by virtue of this criteria, the distinction between

“preventive detention” and “punitive detention” has been negated in as much even those under “punitive detention” have been held eligible for release as per the criteria set forth by the committee, but those who are still undergoing trial and are lodged on preventive detention have been treated worse off than those who have been convicted of the crime.

18. A catena of verdicts has been relied upon on behalf of the petitioner in support of his contentions to contend to the effect that a prisoner or detinue is not stripped of his fundamental or other legal rights, save those which are inconsistent with his incarceration and that the petitioner thus, needs to be rescued.

19. The petitioner has further submitted that the classification of the prisoners on the criteria currently adopted by the Committee is not in consonance with the ratio laid down by the Hon’ble Supreme Court in the decision reported as (1980) 3 SCC 526 “*Prem Shankar Shukla v. Delhi Administration*”. Reliance was also placed on behalf of the petitioner on the verdict of the Hon’ble Supreme Court in “*Sanjay Chandra v. State*” (2012) 1 SCC 40 to contend to the effect that mere involvement in an economic offence and large sums of money with serious allegations, is not a ground to refuse bail.

20. The petitioner seeks to submit further that this Court in “*Anil Mahajan v. Commr of Customs*” 84 (2000) DLT 854 and in “*H.B. Chaturvedi v. CBI*” 171(2010) DLT 223 has held that it is impermissible to classify economic offences as a separate class

judicially for the purpose of grant of bail in the absence of any specific legislation to that effect.

21. The petitioner has thus, submitted that the classification as drawn by the High Powered Committee of this Court, *inter alia*, permits consideration of bail to offenders of much more serious crimes which affect public order and society at large, who are capable of causing bodily injury/hurt as opposed to those persons who have been alleged to commit economic crimes. The petitioner further submits that the persons like the petitioner have been accused of offences that have been committed between two private parties and in no manner have any element of public exchequer involved which aspect the petitioner would make good before the Court at the appropriate stage. The petitioner thus submits that the “sub-categorization” of the case of the applicant/ petitioner, is neither reasonable, nor just nor on the basis of any intelligible differentia. *Inter alia* the petitioner submits that in the prison(s) social distancing seems to be a distant reality since the common facilities are accessible by all inmates and that there has been a outbreak in Tihar Jail, where the UTPs have been quarantined and that there have been outbreaks of the virus in other jails also across the country as well as the jails in Delhi.

22. *Inter alia* the petitioner has submitted that the present case is not a fit case of an economic offence as has been sought to be portrayed by the respondent and does not involve public money and that the provisions of the PMLA Act have been attracted as an offence under Section 420 of the IPC is a Scheduled Offence and that the

PMLA provisions came into force because of the deeming provision of Sections 4/44/45 of the said enactment. *Inter alia* the petitioner submits that there is no reason for his continued detention in custody, in as much as he has been falsely implicated by the complainant and that the petitioner has himself filed a complaint before the EOW for monies that RHC Holdings Pvt. Ltd. was cheated of.

23. The petitioner submits that the FIR in the instant case having been lodged on a private complaint of Religare Enterprises Ltd. (“REL”), the petitioner submits that the complaint has been filed only in order to prevent the petitioner from seeking action against REL for the illegal acts of REL qua the petitioner, RHC Holdings Pvt. Ltd. and other entities. The petitioner has further submitted that the charge sheets have been filed against him and others pursuant to complaints by a private entity, with a material interest in keeping the petitioner in custody. *Inter alia* the petitioner submits that he merits to be enlarged on bail and that the co-accused in the instant case has already been granted bail vide order dated 17.6.2020 in BA No.1074/2020 titled as “*Anil Saxena v. State NCT of Delhi & Anr.*”. (qua this submission it is essential to observe that vide order dated 17.07.2020, in SLP(CRL) Diary No.13106/2020, it has been specifically directed that observations in the order dated 17.06.2020 in BA No.1074/2020 are confined to that accused alone and cannot be used as a precedent/parity for other accused, and that the cases of other accused (co-accused) are to be considered on their own merits.)



24. On behalf of the petitioner, the copy of the judgment of this Court in Bail Appln. No.1353/2020 of the other co-accused titled as **“DR. SHIVINDER MOHAN SINGH VS. DIRECTORATE OF ENFORCEMENT”** dated 23.07.2020 was also submitted by the learned counsel submitting to the effect that the said co-accused has already been granted bail in Enforcement Case Information Report No. ECIR/05/DLZO-II/2019 dated 24.07.2019 (‘ECIR’, for short) under sections 3/4 of the Prevention of Money Laundering Act 2002 (‘PMLA’, for short) subject to terms and conditions as imposed thereby and thus, it has been submitted on behalf of the applicant that the applicant on a parity of reasoning is entitled to bail. *(qua this submission, it is essential to observe that vide order dated 31.07.2020 in Special Leave to Appeal (CRL) No.3474/2020 until further orders, status quo with respect to release from jail of Dr.Shivinder Mohan Singh has been ordered by the Hon’ble Supreme Court.)*

25. At the outset, it is essential to observe that as has already been observed elsewhere hereinabove that the submissions that had been made during the course of the hearing on 17.07.2020 have been specifically made to the effect that the learned senior counsel for the petitioner had confined the prayer made through the present petition i.e. W.P.(CRL) 814/2020 to the prayer clause (a) submitting to the effect that in the event of prayer clause (a) being granted, the petitioner would be entitled to seek the grant of bail in terms thereof and in the prayer clause (a) as already reproduced elsewhere hereinabove, the petitioner seeks the quashing of the minutes of the

meeting of the Hon'ble High Powered Committee of this Court held on 28.03.2020 alone.

26. Thus, the aspect as to whether or not, the applicant is entitled to the grant of bail on merits or whether the applicant is entitled to the grant of bail on the ground of parity to the co-accused Dr. Shivinder Mohan Singh and Anil Saxena and as to whether the provisions of the PMLA Act, 2002 are not attracted in the instant case and as to whether there are no public funds involved, in relation to the allegations that have been made in the complaint or in the charge sheet filed by the EOW against the petitioner are not subject matter of consideration of the present petition qua the prayer clause (a) to the extent of which the prayer made in the present petition has been confined.

27. On behalf of the respondent i.e. State (Govt. of NCT of Delhi) arrayed as the respondent no.1 and on behalf of another respondent i.e. the Directorate of Enforcement arrayed as the respondent no.2, the prayer made by the petitioner seeking the quashing of the minutes of the Hon'ble High Powered Committee of this Court dated 28.03.2020 which have been reiterated vide the subsequent minutes of the Hon'ble High Powered Committee of this Court vide minutes dated 18.04.2020, 18.05.2020, 20.06.2020 and 31.07.2020,- has been vehemently opposed submitting to the effect that the Hon'ble High Powered Committee pursuant to the order dated 23.03.2020 of the Hon'ble Supreme Court in *Suo Moto Writ Petition (C) No.1/2020*, vide its minutes has appreciated the sensitivity and nature of investigations and has excluded certain categories of UTPs/convicts

for being considered for interim bails/paroles and these included UTPs/convicts arrested and sentenced for the offences investigated/prosecuted by the CBI/ED/NIA /Special Cell of Delhi Police etc.

28. It has been submitted on behalf of the respondent no.1 that the applicant has not chosen to file any application for regular bail and is rather insisting for the grant of interim bail taking advantage of the present pandemic situation and that the interim bail/parole of the applicant had been dismissed on 15.05.2020 and it was either open to the petitioner to assail the same or to seek the grant of regular bail in terms of Sections 437/439 of the Cr.P.C., 1973. It has *inter alia* been submitted on behalf of the respondent no.1 that the petitioner and the similarly placed persons have been arrested after detailed and reasoned investigation carried out by agencies and that the crimes allegedly committed by these persons are not those which can be committed in the heat of the moment but are committed in a cool and calculated manner causing great amount of loss to the general public and economy of the country and that the Hon'ble High Powered Committee of this Court keeping various factors in mind has rightly chosen not to give the benefit of the minutes to persons alleged to have committed such offences. The respondent no.1 has further submitted that white collar crimes especially of the nature as the present case are a class apart with huge amount of public money involved in these cases which have weakened the economic foundation of the country.

29. It has further been submitted on behalf of the State that it is well settled by catena of judgments that economic offences in itself are considered to be the gravest offence against the society at large and are thus, necessarily required to be treated differently in the matter of bail, in as much as the economic offenders ruin the economy of the State and their offences affect the very fabric of democratic governance and probity in public life. Reliance in relation thereto is sought to be placed on behalf of the respondent no.1 on the observations of the Hon'ble Supreme Court in "*State of Gujarat v. Mohanlal Jitamalji Porwal*" (1987) 2 SCC 364.

30. *Inter alia* the respondent no.1 has submitted that the discretion to grant of bail in non-bailable offences remains with the Court and cannot be claimed as a matter of right and that the petitioner cannot be allowed to bypass the remedy provided by the Code of Criminal Procedure, 1973 of filing the appropriate application under Section 437/439 of the Cr.P.C. and that the petitioner, cannot be allowed to invoke the extraordinary, discretionary, equitable remedy of this Court, by bypassing the remedy statutorily provided and that the provisions of Article 226 of Constitution of India cannot be allowed to be invoked when there is a specific provision provided in the Code of Criminal Procedure, 1973 for applying for bail.

31. The respondent no.2 through its short affidavit dated 28.05.2020 of its Assistant Director in the Directorate of Enforcement, Government of India, Delhi Zone-II has submitted that the EOW, Delhi Police has registered a FIR No. 50/2019 dated 27.03.2019

against the petitioner herein, Sh. Shivinder Mohan Singh, Sh. Sunil Godhwani, Sh. Narendra Kumar Goushal and others for commission of offences punishable u/s 409/420/120-B of Indian Penal Code, 1860 pursuant to which ECIR NO. 05/DLZO-II/2019 dated 24.07.2019 was recorded by the Directorate of Enforcement for investigating the possible money laundering and that the respondent no.2 has also filed a complaint under Section 44 and 45 of PMLA against the petitioner and other accused persons for committing an offence in terms of under Section 3 of PMLA. The respondent no.2 has further submitted that the petitioner and other accused persons have been found to have indulged into laundering of huge amount of public money to the tune of approximately Rs. 2036.69 Crore.

32. The respondent no.2 has further submitted through its short affidavit that the petitioner in conspiracy with other co-conspirators has caused wrongful loss to the extent of at least Rs.2036.69 Crore to RFL, the RFL being M/s Religare Finvest Limited (in short RFL), a subsidiary of Religare Enterprises Limited (in short REL), which is a public company, listed on stock exchanges and is licensed by the Reserve Bank of India (RBI) to undertake the business of financial services as a non-deposit taking/ lending Non-Banking Financial Company (NBFC) and that the RFL operates as a small and medium enterprise (SME) financing focused NBFC and is in the business of extending SME working capital loans, secure SME business expansion loans, short term trade finance and other loans to various entities and that the RFL is classified as a systematically important



NBFC by the RBI and that the petitioner being the promoter of REL along with Sh. Shivinder Singh continued to control REL till February 2018, i.e., till the time they remained on the Board of Directors of REL and thereby controlled RFL and that the petitioner herein and Sh. Shivinder Mohan Singh played a significant role in the management and conduct of the affairs of the RFL and exercised deep and pervasive control over its management and that internal enquiries conducted by the new management of REL showed poor financial condition of RFL was, to a large extent on account of willful defaults on significant unsecured loans, defined as the Corporate Loan Book (CLB), by borrower entities either related, controlled or associated with the promoters, all of who had been provided the subject loans from RFL on non arms length basis, in violation of corporate governance norms and in contravention of policies and prudential behaviour expected of a NBFC registered with the RBI.

33. The respondent no.2 has further submitted that the RBI (being the regulator for NBFCs) had from time to time expressed concerns regarding the CLB portfolio of RFL, but these concerns were not addressed by the promoters and that the RBI had specifically raised concerns about the promoters using their influence for disbursement of high value unsecured loans to entities with no financial standing (but controlled or associated with the promoters) and breach of corporate governance norms. *Inter alia* through its response, the respondent no.2 has submitted that in its inspection report dated 06.01.2012 for the financial year ending March 2010, RBI had observed that RFL had a

practice of parking a major chunk of surplus funds with the fellow subsidiary/ group companies/ other companies which were often being used for taking positions in securities and the RBI had further observed that "the appraisal, sanction, purpose of loan, disbursal report, periodic review, application from the borrowers requesting for limit enhancement, appraisal/rationale for limit enhancement and monitoring of such loans was not available on the record". The respondent no.2 has further submitted the RBI had pointed out that the said entities had linkages and cross shareholding and that, over a period of 10 years, 115 entities were funded through the CLB book and the total amount funded was approximately Rs.47,968 crores and that on account of RBI pointing towards the CLB book as a risk area, the exposure around the time of quarterly reporting was managed but the disbursements were re-instated soon after. The respondent no.2 has submitted that it was a concerted effort on the part of the promoters (inclusive of petitioner herein) to not report the actual extent of the exposure on CLB and by doing this they concealed material facts from not only the RBI but also the general public shareholders and thus caused the RFL to give unsecured, high value purported loans to their own controlled shell companies and related / known entities and that the loans were given by RFL on the sole and express basis that these entities were known to the petitioner and Sh. Shivinder Mohan Singh and often hundreds of crores were disbursed by RFL at very short notice and at times without adequate documentation for the same and in many instances the documentation was created only subsequently and antedated -thus forged.

34. *Inter alia* the respondent no.2 has submitted that the monies taken out from the RFL and were given to the related entities as unsecured loans by the petitioner who was controlling the RFL, never came back and were utilized by the petitioner and the other co-accused persons through web of shell companies.

35. On a consideration of the rival submissions made on behalf of either side, it is essential to observe that vide the order dated 23.03.2020 of the Hon'ble Supreme Court in ***Suo Moto Writ Petition (C) No.1/2020- IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS*** pursuant to which the Hon'ble High Powered Committee of this Court was constituted, it had been specifically directed by the Hon'ble Supreme Court that each State/Union Territory would constitute a Hon'ble High Powered Committee comprising of (i) Chairman of the State Legal Services Committee, (ii) the Principal Secretary (Home/Prison) by whatever designation it is known as, (ii) Director General of Prison(s), to determine which class of prisoners can be released on parole or an interim bail for such period as may be thought appropriate and that the Hon'ble Supreme Court made it clear that it had left open for the High Powered Committee of the State/Union Territory to determine the category of prisoners who should be released in accordance therewith, depending upon the nature of offence, the number of years to which he or she has been sentenced or the severity of the offence with which he/she is charged with and is facing trial or any other relevant factor, which the Committee may consider appropriate.

36. Vide order dated 13.04.2020, the Hon'ble Supreme Court clarified the order dated 23.03.2020 observing to the effect:-

**“We make it clear that we have not directed the States/Union Territories to compulsorily release the prisoners from their respective prisons. The purpose of our aforesaid order was to ensure that States/Union Territories to assess the situation in their prisons having regard to the outbreak of the present pandemic in the country and release certain prisoners and for that purpose to determine the category of prisoners to be released.”**

*We make it clear that the aforesaid order is intended to be implemented fully in letter and spirit.”*

*(emphasis supplied)”*

37. The Hon'ble High Powered Committee of this Court vide its minutes dated 20.06.2020 at the time of the consideration of the representation of the petitioner herein has observed to the effect:-

*“On bare perusal of the observations/directions given by the Hon'ble Supreme Court vide its order dated 23.03.2020, it is apparent that the High Powered Committee so constituted was given **an absolute discretion to determine which class/category of the prisoners can be released on interim bail or parole** depending not only upon the severity of the offence, but also the **nature of offence** or any other **relevant factor**. It is further apparent on perusal of the subsequent order dated 13.04.2020 of Hon'ble Supreme Court whereby it was clarified that it has not directed the States/Union Territories to **compulsorily release the prisoners from their respective prisons.**”*

*Thus, no prisoner in whatsoever **category/class** he falls and whatever nature of offence he is facing trial, can seek or claim to be released from prison **as a matter of right.**”*

*This Committee while arriving at its decision in earlier meetings as well as in laying down the criteria today for release of the categories of prisoners on interim bail herein above, had taken into account the overall holding capacity of Delhi Prisons, existing strength on the dates of the Meetings and also the nature of offences for which the prisoners were lodged in jails. The Committee deliberated upon the categories/class of prisoners depending upon the nature of offence for which they were in jail for considering them for grant of interim bail/parole as the case may be. The committee had also considered to **exclude** certain nature of cases under the Special Acts like POCSO, MCOCA, PC Act, NDPS, PMLA, UAPA, Terror related Cases, Rape Cases under Section 376 IPC besides those which have been investigated by CBI/ED/NIA/Special Cell of Delhi Police, Crime Branch, SFIO, to be excluded from consideration zone for being released on "**interim bail**". The said decision was taken only after considering the **relevant factors** and on the basis of **objective satisfaction** arrived at by the Committee. The criteria was adopted taking into consideration **class/category** of offences in mind and not having prisoner-centric approach. The object was only to release some of the prisoners and not all the prisoners on a reasonable classification arrived at on the basis of orders passed by Hon'ble Supreme Court, intending to implement the same **in letter and spirit**. The submissions made in the representation in hand, relates to the applicant only. However, the Committee as stated earlier, was not formed to look into merits or demerits of an individual case for being released on interim bail, rather it was formed to lay down a criteria taking into consideration a particular class and not any particular prisoner or inmate.*

*In view thereof, this Committee is of the opinion that the representation is **unmerited and the same is accordingly rejected**.*

*It is however made clear that this Committee for release of prisoners on "**interim bail**" vide criterion*



*adopted in the meetings dated 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020, 18.05.2020 and the one adopted hereinabove today, shall in **no way** affect the rights of other UTPs, who **do not** stand covered under these categories, from invoking the jurisdiction of concerned courts for grant of regular/interim bail. The concerned Courts on filing of applications by such UTPs may consider the same on merits, in accordance with law.”*

38. A bare perusal of the said minutes dated 20.06.2020, which reiterated the minutes of the Hon'ble High Powered Committee of this Court of this Court dated 28.03.2020, 18.04.2020 & 18.05.2020 has observed categorically to the effect that no prisoner in whatsoever **category/class** he falls and whatever nature of offence he is facing trial, can seek or claim to be released from prison **as a matter of right** and that the Committee while arriving at its decision in earlier meetings as well as laying down the criteria on 20.06.2020 for release of the category prisoners on interim bail had taken into account the overall holding capacity of Delhi prisons, existing strength from the dates of the meetings and also the nature of offences qua which the petitioner(s) were lodged in jails and that the Committee had deliberated upon the categories/class of prisoners depending upon the nature of offence for which they were in jail for considering them for grant of interim bail/parole as the case may be and that the Committee had also considered to **exclude** certain nature of cases under the Special Acts like POCSO, MCOCA, PC Act, NDPS, PMLA, UAPA, Terror related Cases, Rape Cases under Section 376 of the IPC besides those which have been investigated by CBI/ED/NIA/Special Cell of Delhi Police, Crime Branch, SFIO, to be excluded from consideration

zone for being released on "**interim bail**". The Committee has further observed to the effect that this decision was taken only after considering the **relevant factors** and on the basis of **objective satisfaction** arrived at by the Committee and that the criteria was adopted taking into consideration **class/category** of offences in mind and not having *prisoner-centric approach* and that the object was only to release some of the prisoners and not all the prisoners on a reasonable classification arrived at on the basis of the orders passed by Hon'ble Supreme Court, intending to implement the same **in letter and spirit**.

39. The Hon'ble High Powered Committee whilst considering the representation of the applicant observed also to the effect that the submissions made in the representation, related to the applicant only, but, that the Committee, was not formed to look into merits or demerits of an individual case for being released on interim bail and rather it was formed to lay down a criteria taking into consideration a particular class and not any particular prisoner or inmate and that the Committee thus, was of the opinion that the representation filed by the applicant/petitioner herein was **unmerited and the same was accordingly rejected**.

40. Significantly, however, the Hon'ble High Powered Committee made it clear that the guidelines and minutes of the Committee for release of prisoners on "**interim bail**" vide criterion adopted in the meetings dated 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020, 18.05.2020 and 20.06.2020, would in **no way** affect the rights of other

UTPs, who **do not** stand covered under these categories, from invoking the jurisdiction of concerned courts for grant of regular/interim bail. The Hon'ble High Powered Committee further observed to the effect that the applicant was at liberty to file the bail application before the concerned Courts, and the same as and when filed, may be considered by the concerned Court on merits, in accordance with law.

41. The very observations of the Hon'ble High Powered Committee vide its minutes dated 20.06.2020 observing to the effect that the criterion adopted in the minutes of the meeting dated 28.03.2020 which are the minutes impugned vide the present petition and then adhered to by the Hon'ble High Powered Committee of this Court vide its minutes dated 07.04.2020, 18.04.2020, 05.05.2020, 18.05.2020, 20.06.2020 and 31.07.2020, did not affect the rights of the UTPs not standing covered under those categories whereby interim bail was considered to be granted, from invoking the jurisdiction of the concerned Courts for the grant of regular/interim bail and that the Courts concerned may consider such applications filed by such UTPs not falling within the category of prisoners for the alleged commission of offences, which did not fall within the ambit of those category of prisoners who could be considered by the Courts concerned for the grant of interim bail in view of COVID-19 pandemic, could invoke the jurisdiction of the concerned Courts for the grant of regular/interim bail, makes it apparently clear that the minutes of the Hon'ble High Powered Committee of this Court dated

28.03.2020 adhered to till 31.07.2020 and till date in relation to economic offences, do not preclude and do not prevent the applicant/petitioner who is alleged to have committed such an offence as investigated by the CBI/ED/NIA /Special Cell of Delhi Police to move an application seeking the grant of bail in accordance with law which the Court concerned could consider on merits in accordance with law.

42. This itself makes it clear that the contention raised by the petitioner that the Hon'ble High Powered Committee vide its minutes dated 28.03.2020 which have been included in the present petition and the subsequent minutes till the date 31.07.2020 had in any manner supplanted the provisions of Sections 437/438/439 of the Cr.P.C., 1973,- cannot be accepted and thus, the contention raised on behalf of the petitioner that the criterion laid down by the Hon'ble High Powered Committee observing to the effect that the category of persons alienated in its minutes dated 28.03.2020 which may not be considered for the grant of interim bail in terms of the orders of the Hon'ble Supreme Court in *Suo Moto Writ Petition (C) No.1/2020- IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS*, stifles the right to liberty of the petitioner under Article 21 of the Constitution of India or the right to life under the Constitution of India, is wholly untenable.

43. It is thus, essential to observe that the release of an accused on bail or on interim bail in a non-bailable offence, which he/she is alleged to have committed, is not a vested right in any accused/convict

and falls within the discretionary jurisdiction of the Court concerned to grant or not to grant the prayer of an accused seeking bail or interim bail.

44. It is essential to observe that the order of the Hon'ble Supreme Court dated 13.04.2020 clarified its order dated 23.03.2020 in *Suo Moto Writ Petition (C) No.1/2020 IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS* and thereby, the Hon'ble Supreme Court has made it clear that it has not been directed that the State/Union Territories have compulsorily to release the prisoners from the respective prisons and that the purpose of the order dated 16.03.2020 was to ensure that the State/Union Territories assess the situation in their prisons having regard to the outbreak of the pandemic in the country and to release certain prisoners and for that purpose to determine the category of prisoners to be released with it being apparent that vide order dated 23.03.2020, the Hon'ble Supreme Court in the said *Suo Moto Writ Petition (C) No.1/2020 IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS*, had made it clear that it was left open for the High Powered Committee of the State/Union Territory to determine the category of prisoners who should be released in accordance therewith, depending upon the nature of offence, the number of years to which he or she has been sentenced or the severity of the offence with which he/she is charged with and is facing trial or any other relevant factor, which the Committee may consider appropriate.

45. It is essential to observe that economic offences are offences which corrode the fabric of democracy and are committed with total disregard to the rights and interest of the nation and are committed by breach of trust and faith and are against the national economy and national interest and that such nature of offences have not been considered by the Hon'ble High Powered Committee vide its minutes dated 28.03.2020 to fall within the ambit of the grant of discretionary interim bail by the factum simpliciter of the prevalence of the COVID-19 corona pandemic, cannot be termed to be an arbitrary exercise of discretion for laying down the guidelines in relation to the category of alleged commission of offence in which an accused may be allowed to be released on interim bail only on the ground of prevalence of the COVID-19 corona pandemic.

46. As regards the contention that has been raised on behalf of the petitioner that the offence with much higher sentences than the offence alleged to have been committed by the present petitioner have been allowed to fall within the ambit of grant of discretionary bail, for example, even qua the offence punishable under Section 302 of the Indian Penal Code, 1860, where an accused has been lodged for a period of two years or more with no previous adverse antecedents against him, the aspect of consideration of the grant of interim bail to such an accused has not been negated by the Hon'ble High Powered Committee, it is essential to observe that qua the offences which are committed inter se persons, the same may have been committed pursuant to the moment in which they are committed without deliberated *mens rea*. The economic offences however, apparently, do



not fall within such domain of non-intentional and non-existent culpable *mens rea*. Thus, the contention raised on behalf of the petitioner that there has been an arbitrary and unjust classification made by the Hon'ble High Powered Committee of this Court vide minutes dated 28.03.2020 as adhered to till the minutes dated 31.07.2020, qua offences falling under cases under the PMLA Act and those investigated by the CBI/ED/NIA /Special Cell of Delhi Police and Terror related Cases, cases under Anti National Activities and Unlawful Activities(Prevention) Act etc., cannot be accepted as it cannot be contended that these said offences have not been distinguished from other offences on the basis of any intelligible differentia.

47. The written submissions submitted on behalf of the complainant pursuant to order dated 17.07.2020 submit appropriately to the effect that though, there have been relaxations of the categories of UTPs who have been exempted from the category of criteria for release of UTPs on interim bails, the criteria in relation to the under trial prisoners facing the trial under the PC Act, PMLA Act and investigation conducted by the CBI/ED/NIA /Special Cell of Delhi Police and Terror related Cases, cases under Anti National Activities and Unlawful Activities(Prevention) Act etc. had been continued to be retained and that economic offences have a deep rooted conspiracy involving a huge loss of investor's money and thus, cheating of large number of depositors and misappropriating their hard earned money, as has been taken into account by the Hon'ble Supreme Court in "**CBI**

**vs. Ramendu Chattopadya” in Criminal Appeal No. 1711 of 2019**

vide paragraph 8 thereof, which reads to the effect:-

*“This Court is conscious of the need to view such economic offences having a deep rooted conspiracy and involving a huge loss of investors’ money seriously. Though further investigation is going on, as of now, the investigation discloses that the Respondent played a key role....thereby cheating a large number of innocent depositors and misappropriating their hard-earned money.”*

As has rightly been submitted on behalf of the respondent nos. 1 & 2 as well as on behalf of the complainant, there is nothing that prevents the petitioner from seeking the remedy of filing a bail application in accordance with law and the same has also been explicitly observed by the Hon’ble High Powered Committee of this Court whilst rejecting the representation of the petitioner herein against its minutes dated 28.03.2020 observing to the effect that the applicant is entitled to seek the grant of bail and when he files such an application, the same may be considered on its own merits and in accordance with law.

48. On a consideration of the submissions that have been made on behalf of either side and the orders of the Hon’ble Supreme Court dated 16.03.2020, 23.03.2020, 07.04.2020, 13.04.2020, 13.05.2020 & 06.07.2020 in *Suo Moto Writ Petition (C) No.1/2020 IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS* and the minutes of the Hon’ble High Powered Committee of this Court dated 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020, 18.05.2020, 20.06.2020 and 31.07.2020, it is apparent that the prayer clause (a) as sought by the

petitioner through the present petition, cannot be granted and is thus, not granted.

49. As regards the prayer clause (b) that has been mentioned in the petition qua the aspect of grant of release of the applicant on bail, in as much as, the prayers made through the present petition were confined only to the consideration of the prayer made by the petitioner seeking the quashing of the minutes of the Hon'ble High Powered Committee held on 28.03.2020 as submitted during the course of the submissions made on 17.07.2020 before this Court, and also taking into account the factum that through a petition under Articles 226 & 227 of the Constitution of India, the statutory provisions of the Code of Criminal Procedure, 1973 which relate to the grant of bail or non grant thereof as laid down in Chapter XXXIII which deals with the provisions as to bail and bonds cannot be sought to be implemented or for the consideration of the aspect grant of bail whether regular bail or interim bail would fall within the ambit of the provisions of Chapter XXXIII of the Cr.P.C., 1973, which remedy, the petitioner herein has to seek and avail of (during pendency of this petition as per a report in The Economic Times with an article dated 07.08.2020 that the petitioner has since filed an application seeking grant of bail on parity the Dr.Shivinder Mohan Singh.)

50. In view thereof, the prayer clause (a) made in the petition is declined, however, it is open to the petitioner to seek redressal in accordance with law in terms of Chapter XXXIII of the Cr.P.C., 1973 to seek the grant of bail, which apparently necessarily has to be

considered on its own merits as already observed by the Hon'ble High Powered Committee vide its minutes dated 20.06.2020 whilst rejecting the representation of the petitioner against the classification in relation to economic offence vide its minutes dated 28.03.2020.

51. Nothing stated hereinabove shall however amount to any expression on the merits or demerits of any bail application that is filed by the petitioner which apparently necessarily would have to be considered on its own merits.

**AUGUST 10, 2020**  
*'neha chopra'*

**ANU MALHOTRA, J.**



भारतमेव जयते