

IN THE COURT OF SH. AJAY KUMAR KUCHAR,
ASJ/SPECIAL JUDGE, CBI – 09 (PC ACT),
ROUSE AVENUE DISTRICT COURTS, NEW DELHI.

FIR No.213/2020

U/S 386/306/506/34 IPC

PS Neb Sarai

District South

Prakash Jarwal (MLA Deoli)

S/o Sh. Jagdish Parsad, vs. State

R/o H. No.B-148, Tigri Extension,

Delhi-110062.

Vs.

State

28.05.2020

Presence:

(Through Cisco Webex Meeting App)

**ORDER ON BAIL APPLICATION U/S 439 Cr.P.C. SEEKING REGULAR
BAIL TO THE APPLICANT / ACCUSED PRAKASH JARWAL**

1. This application was assigned to this court by virtue of the order of Ld. District & Sessions Judge-cum-Special Judge (PC Act) Ms. Sujata Kohli, Rouse Avenue District Courts, New Delhi No. 29/DJ/RADC/2020 Dated 16/05/2020 and accordingly was taken up for hearing on 27/05/20 and



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listed today for order.

2. Hearing of this application took place through Video Conference via Cisco Webex Meeting App, facilitated by the Office of Ld. District & Sessions Judge-cum-Special Judge (PC Act), Rouse Avenue District Courts, New Delhi due to spreading of Corona Virus (COVID-19) and special measures being taken by the Govt. to prevent it by ordering a nationwide lockdown since 25.03.2020 and instructions issued by Ld. District Judge to work from home in order to maintain social distancing.
3. Facts necessary for disposal of the present bail application and as stated in the FIR, Bail Application and the Reply filed by the I.O., are that on 18.04.2020, DD No.11 A was received at PS Neb Sarai, New Delhi, in which it was stated that a person has committed suicide at H. No. A-144, Durga Vihar, New Delhi. SI Shiv Singh on receipt of this DD No.11 A reached H. No.144, Durga Vihar, where he saw that Dr. Rajender Singh had committed suicide on the rooftop of his above said address. He hanged himself with the help of a rope attached to the railing of the roof in the early morning around 5:30 am.
4. The FIR in this connection was registered on the complaint of Sh. Hemant Singh s/o deceased Dr. Rajender Singh. He alleged in the complaint that his father was running Choudhary Clinic in Durga Vihar, New Delhi, and was also engaged in providing water tankers to Delhi Jal Board (hereinafter referred as DJB) since the year 2005, for supply of water. He alleged that MLA Prakash Jarwal elected in 2015 along with his associate Sh. Kapil Nagar had been demanding money from his father and had been continuously harassing him. He alleged that Rs. 15,000/ for small Tankers and Rs. 20,000/ for big Tankers was to be



paid to MLA Prakash Jarwal through his associate, Kapil Nagar co-accused, in order to engage in the business of water supply with DJB. They used to demand monthly from his father. His further alleges that MLA Prakash Jarwal, who also happens to be a Member of DJB, does not allow any water tanker to be deployed with DJB without taking monthly from the tanker owner. It was further alleged that he along with his associate Sh. Kapil Nagar used to threaten his father and mentally harass him. He alleged that his father had mentioned these facts to his family members as well, who used to give him moral support to bear the situation. It is further alleged that his father had written in a diary about the harassment being given to him by the applicant / accused Prakash Jarwal. He further alleged that when his father opposed the demand of applicant / accused Prakash Jarwal, his tankers deployed with DJB were disengaged. He further alleged that his father had given a complaint in this regard to the Executive Engineer, DJB, GK-I, South, New Delhi on 09/04/2020. He further alleged that his father was a heart patient but despite that the accused continued to harass his father. The complainant has also alleged that a threat call had been received by his father wherein accused Prakash Jarwal had intimidated the deceased with dire consequences and in this regard there is a recording of a conversation on phone which shows that deceased was being threatened and harassed. It is further alleged that the applicant / accused Parakash Jarwal by using his influence, got the payment of their tankers stopped from DJB. In this regard, his father deceased Dr. Rajender Singh has mentioned in his diary in which he has also mentioned about the money given to applicant / accused Prakash Jarwal. He alleged that on account of the harassment and the threats given by the applicant / accused Prakash Jarwal, his father



committed suicide on 18.04.2020.

5. After the FIR was registered, the investigation was started and it was found in the investigation that since 2015, the accused was paid Rs.15,000/- for small water tankers and Rs.20,000/- for big water tankers through his associate Sh. Kapil Nagar. Then in the month of July 2019, the applicant / accused Parakash Jarwal demanded one time payment of the extortion money election i.e. Rs.51,000/- for small water tankers and Rs.71,000/- for the big water tankers to meet the expenses for Delhi Assembly Election, which were to be held in February, 2020. Deceased Dr. Rajender Singh had made partial payment of this amount to the MLA with which accused was not satisfied and he got the tankers of deceased Dr. Rajender Singh disengaged from DJB and also got the payment stopped for the tankers deployed with DJB till February, 2020. During the investigation, suicide note running into six pages and a diary containing sequences of events written by the deceased on day to day basis (containing 39 pages) was found and seized by the police. In this suicide note, there are specific and categorical allegations against the applicant / accused Prakash Jarwal that he used to demand money from the deceased and always used to harass him for not meeting his demand and that the accused extorted a huge sum of money from him and threatened him and his family with dire consequences and on being left with no other option, the deceased committed suicide.
6. During the investigation, a mobile phone of Sh. Revadhar Bhatt, an employee of the deceased was given by the complainant which contains the recording of conversation between the deceased Dr. Rajender Singh and the applicant / accused Prakash Jarwal wherein the applicant /



accused Prakash Jarwal was intimidating the deceased Dr. Rajender Singh for dire consequences. This conversation was made through mobile No.9999071851, which was used by the applicant / accused Prakash Jarwal on the mobile No.9811292950 which was the mobile number of the deceased Sh. Rajender Singh. In the background of these allegations leading to registration of FIR under section 306/386/506 IPC, the investigation is being conducted where in statements of some of the witnesses have been recorded corroborating the allegation made in the suicide note.

7. In the bail application it is stated that there is no evidence available with the Prosecution to show that the accused had ever extorted any money from the deceased Dr. Rajender Singh or that he ever extended any threat to the deceased or the accused ever used his influence to cause loss of business and got the payments stopped from DJB which led the deceased to commit suicide. It is stated that there is no direct or indirect evidence to connect the deceased with any act of harassment in the recent past. There is no evidence of any money being paid by the deceased; there is no evidence that the accused has any role in the payment not being made by the DJB.
8. It is further stated in the application that information was sought from the DJB under Right to Information Act (RTI) and it was informed by DJB that no water tanker was engaged in the name of deceased Dr. Rajender Singh since April 2019 till March 2020 and that the water tankers deployed with the DJB by the deceased were disengaged because the deceased had indulged in black marketing of the water tankers which was disclosed in a sting operation conducted by an electronic media



'NEWS 18' in 2017. Thereafter, the deceased was black listed. It was further submitted that DJB has been making payment to the tanker owners on regular basis subject to availability of funds. It is further stated that the tankers engaged by the wife of the deceased and other family members of the deceased have received payment for the water tankers provided by them. It is further submitted that the water tankers of the deceased were not engaged by DJB in the month of March 2020 and April 2020 because no application was received by DJB from the Tankers Owners for engaging these water tankers in the DJB. It is further submitted that the applicant has nothing to do with the stoppage of payment of the bill of the family members of the deceased.

9. It is further submitted that the veracity and genuineness of suicide note is a matter of investigation. It is further submitted that over the last one and a half month, the applicant / accused was engaged in relief work in Deoli Constituency and distributing food to approximately 20000 people on daily basis.

10. It is further submitted that the offence under Section 306 of IPC is not made out as there is nothing on record to corroborate the facts that there was any "instigation" on the part of the applicant / accused which would come under the definition of abetment. It is submitted further that no mens rea is evident from the facts of the case. It is submitted that there is no evidence to show that the deceased and the applicant were in contact in the recent past and the applicant had caused any harassment to the deceased, as alleged in the suicide note. Further, it is stated that different individual react and behave differently in the same situation. Therefore, it is not easy to answer as to what could be cause of suicide.



11. It is further submitted that not only that the offence under Section 306 of IPC is not made out, even offence under Section 386 of IPC (extortion) is not made out as there was no demand of money, or any property from the applicant / accused and as such no threat was given to extort any money from the deceased. The allegation of extending threat is without any basis. The applicant has been falsely implicated in the present case.
12. The applicant, therefore, prayed for grant of bail on the ground that he has deep roots in the society; he is a sitting MLA from the Deoli Assembly Constituency. The applicant / accused has been cooperating with the police authorities in the investigation as and when he was called. The applicant / accused being the representative of the people of Deoli Constituency has to monitor the crucial task of sanitization of the entire area in the wake of the outbreak of Covid 19 Pandemic. The applicant / accused when served with a notice under Section 41 of Cr.P.C., joined the investigation on 09.05.2020. He has also suffered the police custody remand and presently he is in custody since 17.05.2020. His custody is not required for the purpose of further investigation and there is no chance of his absconding and evading the process of law as he has roots in the society, therefore, it is submitted that the applicant may be granted bail under Section 439 of Cr.P.C.
13. In the reply to the application while opposing the bail application, the IO has given the transcript of the conversation on two mobile phones i.e. 9999071851 and 9811292950 used respectively by the accused and deceased, which reads as under:

“Hello Hello ji, Doctor Rajendra hai ky, sahab to nhi hai sahab ki tabiyat kharab hai ghar par hai, kiu kya ho gaya, sahab ko heart ki



pareshani hai sir, Phon par bat kare ya phon pa bat karna hi band kar diya, Nahi nhi wo ghar par hai phone mere pas hai doctor ne aaram karne ke liye kah rakha hai karlenge aap aap kon bol rahe hai, MLA bol raha hun Prakash Jarwal, Ji sir namashkar sir me boldunga sahab se kal bat karwa dunga sir, Kal tak agar unka phon nhi aaya to kah dena fir aisi taise ho jayegi, Achchha.., Parlok sidhar jayenge fir thike, Yen....”.

14. In the reply, the IO has also mentioned about the contents of the suicide note which also specifically named Prakash Jarwal and Kapil Nagar, which in addition to the threats given to the deceased also mentions that the deceased had mortgaged the jewelry of his family to make payment to the accused. As per this suicide note, the deceased has already paid six lacs to the applicant Prakash Jarwal and his associate Kapil Nagar as extortion money but they both demanded some more extortion money from the deceased due to which he decided to commit suicide.

15. Further the Call Detail Record (CDR) of the mobile No.9999070851 of the applicant / accused Prakash Jarwal has been obtained during further investigation. As per the CDR, on 18.07.2019 at 8:46 pm, a phone call was made to the deceased Dr. Rajender Singh on his mobile No.9811292950 from Mobile No.9999070851. As per Certified Application Form (CAF) this mobile number was issued in the name of one Sh. Pradeep Kumar s/o Sh. Shankar Lal. During investigation, Sh. Pradeep Kumar stated that he had purchased this mobile on his ID and it was handed over to the applicant / accused Prakash Jarwal for his personal use which he was using since 2015.

16. In the reply to the application, it has been further submitted that the



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suicide note and the diary containing the noting of deceased have been seized which contains specific allegations of threat, intimidation, extortion and causing mental harassment to the deceased. It is submitted that the applicant is an MLA of the Deoli Constituency and the witnesses in the case are also of the same area, therefore, he may influence the witnesses. It is further submitted that the role of the officials of DJB and their nexus with the accused Prakash Jarwal is being investigated and he being a member of DJB, may influence the officials of DJB. It is further submitted that the tanker mafia is operating in the area in Deoli and Sangam Vihar and nexus between the applicant / accused and the said tanker mafia has been revealed; the case is at the initial stage and payment by the owners of water tankers to the applicant / accused and their nexus is still being investigating. It is further submitted that the applicant / accused has been engaged in the criminal cases earlier also and one such case is the FIR No.54/2018 PS Civil Lines in which the applicant / accused along with his co-accused had assaulted the then Chief Secretary of GNCT of Delhi. Therefore, it is submitted that in view of the above facts and that the investigation is still pending and the nexus of the water tankers mafia and the applicant / accused is being investigated and the applicant being influential person, may influence the witnesses and hamper the investigation, therefore, the bail application may be dismissed.

17.I have heard the arguments advanced by the Sh.Hariharan, Ld.Senior Advocate for the applicant, Sh.Manish Rawat Ld. Addl.P.P. for the State and Sh. Tanveer Ahmed Mir counsel for the complainant.

18.The Id. Counsel for the applicant has argued that FIR in this case was



registered at 2.20pm while the incident took place at 5.30.am so there is long unexplained gap of about 9 hours in registration of FIR. He argued that although Diary and alleged suicide note was found allegedly at the spot but no statement of any family members of the deceased was recorded. In this background the delay in registration of the FIR becomes significant. Further, it was argued that the Diary does not contain any recent writing so there is no proximity between the allegation in the diary and the incident of suicide by the deceased. It was argued that the proximate nexus between the mental state of the deceased and the act of the accused must be established to attract section 306 I.P.C. He argued that act of accused must be *Causa causans* for the act of the deceased but in the present case there was no act of applicant in the proximate time of the suicide of the deceased. There is no evidence of 'instigation' by the applicant which could attract the criminal liability under section 306 I.P.C.

19.It was argued that as per the allegation demand was made through Kapil Nagar,co accused. There is no evidence that applicant demanded money directly. The allegation that applicant got the payment from the DJB stopped, is with out any basis. The Annexure A3 with the application shows that payment has been made up to December 2019 and for the months of January and February is in the process. Moreover, applicant is simply a Member of the DJB and has no control over it.

20.It was argued that Tankers of the deceased were disengaged for illegal selling of DJB water by deceased after detailed enquiry and with the approval by the CEO of DJB. The annexure A-2 attached with the application would confirm this. It was argued that no Tanker of deceased



was engaged by DJB from April 2019 to March 2020 so no question of disengagement of Tankers of deceased at instance of applicant arises.

21. It was further argued that evidence has been collected; statements of the witnesses have been recorded under section 161 and 164 Cr.p.c. therefore no chances of influencing those witnesses; applicant has already joined investigation and suffered police custody remand and presently in judicial custody since 17/05/2020; that no complaint was ever made by the deceased or his family members to the police about extortion and harassment by applicant; that applicant is representative of people there are no chances of his absconding and that applicant qualifies the triple test i.e. he is not flight risk, he can not tamper evidence, he can not influence witnesses as their statements already recorded.

22. The Id. Counsel in support of his argument has has relied upon following case law:- Chitersh kumar Chopra vs State Crl. Appeal 1473/2009; Datta Ram Singh vs State of U P Crl. Appeal 227/18; Gangula Mohan Reddy vs State Crl. Appeal 1301/2002; Dinesh Kumar vs State Crl. Appeal 18/2012 (High Court); P. Chidamram vs Directorate of Enforcement Crl. Appeal 1831/2019; Ramesh kumar vs State of Chattisgarh Crl/ Appeal 617/2000 and Sanjay Chandra vws CBI Crl. Appeal 2178/201. I have gone through the case law relied upon by the applicant.

23. Ld Addl. PP for the State and Id. counsel for the complainant have argued that offences under 306 and 386 I.P.C. are punishable upto 10 year imprisonment and thus are grave offences; the applicant is influential person and thus can influence witnesses who are yet to be examined; the diary and suicide note recovered from the spot clearly point accusing finger towards applicant thus make out a strong prima facie case against



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the accused; the audio conversation on the mobile phone of deceased and the applicant proves that applicant was pressurizing the deceased and resorted to extortion and the investigation with the angle of ascertaining the purchase of immovable property with the extorted money is still in progress. It is also argued that the applicant has been involved in criminal case earlier also one of them is FIR no. 54/2018 P.S Civil Lines involving assault on the Chief Secretary of NCT of Delhi. Thus considering the gravity of the offence, nature of allegation, status and antecedent of applicant and also the fact that investigation is at initial stage the bail application be dismissed.

24.Ld. Addl.PP has argued that at the time of bail merit of the case in depth can not be considered and only a prima facie case is to be seen. He argued that case is still under investigation therefore accused may not be granted bail at this stage. In support of the argument opposing bail reliance has been placed on the following judgements:-Rajesh Ranjan Yadav vs CBI (2007)1 SCC70; Amit kumar vs Ramesh Chander (2012)9 SCC 460; Parveen Pardhan vs State (2012)9 SCC 734; Kalyan Chandra Sarkar vs Rajesh Ranjan (2004)7 SCC 528; State of U P vs Amar Mani Tripathi (2005)8SCC 21 and Chitresh kumar Chopra vs State (2009) 16 SCC 605.

25.The principle of law governing the grant of bail are well established but there is no hard and fast rule giving a straight –jacket formula for grant or rejection of the bail. The Supreme Court while considering the question of grant of bail in the case of **P. Chidambaram vs Directorate of Enforcement** has referred to the judgment in Prahlad Singh Bhatti vs State (2001) 4 SCC 280 the relevant portion of which reads as follows: -



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“The jurisdiction to grant bail has to be exercised on the basis of the well-settled principles having regard to the facts and circumstances of each case. The following factors are to be taken into consideration while considering an application for bail:- (i) the nature of accusation and the severity of the punishment in the case of conviction and the nature of materials relied upon by the prosecution; (ii) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses; (iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence; (iv) character behaviour and standing of the accused and the circumstances which are peculiar to the accused; (v) larger interest of the public or the State and similar other considerations.” The Supreme Court after referring to these observations held, *“There is no hard and fast rule regarding grant or refusal to grant bail. Each case has to be considered on the facts and circumstances of each case and on its own merits. The discretion of the court has to be exercised judiciously and not in an arbitrary manner”*. Considering the above principle one can say that each case has to be considered on its own facts and merit. In Datta Ram’s case (supra) and Sanjay Chandra’s case (supra) the Court was considering bail after filing of charge sheet when the case was on trial. But in the present case investigation is still at initial stage.

26. So far as the allegation of section 306 IPC is concerned, at this stage no finding can be given. In Chitresh Kumar Chopra vs State (supra) the Court had opined that there should be intention to provoke, incite or encourage the doing of the act by deceased but at the same time it also held that “each case has to be decided on the basis of its own facts and



circumstances”.

27.No doubt different persons react, behave and respond differently in similar situation because their sensitivities work differently. In the case of Gangula Mohan Reddy (supra) the court took the view that for the offence of 306 IPC mens rea to commit the offence must be there. It was held, “It requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he committed suicide”. The ld. Counsel for the applicant has referred to the judgment in Ramesh kumar vs State (supra) and submitted that to satisfy the requirement of instigation it is not necessary that actual words must be used to that effect or instigation must be suggestive of the consequences. It was argued that there is no evidence of any act of the applicant in the proximity of the time when the deceased committed suicide. The ld.Addl .PP has, however, submitted that suicide note and the noting in the diary show the serial harassment to deceased over a period of time to extort money which ultimately led to commission of suicide by the deceased.

28.I think that at this stage suicide note and noting of the diary can not be ignored. Moreover allegation is that deceased had paid huge amount to applicant after mortgage of jewellery of his wife and sale of ancestral land. This aspect of investigation is still pending. Further, it was submitted that allegation that applicant got the payment of tankers stopped from DJB is yet to be investigated and person from DJB are to be examined. The applicant being the MLA is definitely an influential person and can influence the witnesses who are yet to be examined on different aspect of investigation.



29. The information collected by the applicant under RTI Act and placed on record as Annexure 2 and A3 would show that some Tankers of family members and close friends of deceased were employed and their payment has been released upto December 2019 only and from March 2020 onwards these tankers have been disengaged. The circumstances of disengagement of these tankers and non payment of dues are yet to be investigated. The applicant sought specific information with regard to specific tankers under RTI Act which indicates that applicant was aware that these tankers belong to the deceased though not in his name. So the submission of the applicant that no tanker of deceased was engaged since April 2019 would not be acceptable.

30. It was argued that applicant is MLA of the Deoli Constituency and a respectable person therefore he is not flight risk and would not influence witnesses. However I am not convinced with this argument because this status of applicant gives him opportunity and potency to influence witnesses.

31. Therefore considering the nature of offence, status of the applicant and stage of investigation I am of view that release of applicant at this stage would hamper and may influence the investigation therefore, it is not considered to be fit case to admit the applicant to bail at this crucial stage of investigation. The regular bail application of the accused Parkash Jharwal under section 439 Cr.P.C is dismissed.

32. A copy of this order is being sent through Whats App to Sh. Vivek P.A. to Ld. District & Sessions Judge-cum-Special Judge (PC Act), Rouse Avenue District Courts, New Delhi, with a direction to him to upload the same on official website of Delhi District Courts at the



earliest. A signed hard copy of the order shall be sent to the concerned court as soon as work is resumed from the Court premises of Rouse Avenue District Courts, New Delhi.



28/05/2020

Ajay
28/05/2020

Ajay Kumar Kuhar
ASJ/Special Judge, CBI – 09 (PC Act)
Rouse Avenue District Court
New Delhi

AJAY KUMAR KU HAR
Special Judge (PC Act) CBI-09)
Court No. 502, Fifth Floor
Rouse Avenue Court Complex
New Delhi

IN THE COURT OF SH. AJAY KUMAR KUHAR,
ASJ/SPECIAL JUDGE, CBI – 09 (PC ACT),
ROUSE AVENUE DISTRICT COURTS, NEW DELHI.

FIR No.213/2020

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Vs.

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28.05.2020

Presence: (Through Cisco Webex Meeting App)

Shri Mohd. Irsad Advocate with Ms. Aditi, proxy for Shri Ravi Drall
Advocate, Counsel for the applicant / accused Prakash Jarwal.

Inspector Kumar Rajiv, IO for the State.

Sh. Ravinder Singh, Advocate for the Complainant

**ORDER ON BAIL APPLICATION U/S 439 Cr.P.C. SEEKING REGULAR
BAIL TO THE APPLICANT / ACCUSED PRAKASH JARWAL**

1. This application was assigned to this court by virtue of the order of Ld.



District & Sessions Judge-cum-Special Judge (PC Act) Ms. Sujata Kohli,
Rouse Avenue District Courts, New Delhi No. 29/DJ/RADC/2020 Dated
16/05/2020 and accordingly it was taken up for hearing today.

2. Hearing of this application has taken place through Video Conference via Cisco Webex Meeting App, facilitated by the Office of Ld. District & Sessions Judge-cum-Special Judge (PC Act), Rouse Avenue District Courts, New Delhi due to spreading of Corona Virus (COVID-19) and special measures being taken by the Govt. to prevent it by ordering an nationwide lockdown since 25.03.2020 and instructions issued by Ld. District Judge to work from home in order to maintain social distancing
3. Vide my separate order the application of the accused Parkash Jarwal has been dismissed.
4. Today I am have been informed by Sh.Brijesh, the Reader of the court that Sh.Ravi Drall has moved an application pointing out that his name was not mentioned in the order sheet dated 27/05/2020. In view of inadvertent omission necessary correction in the order sheet dated 27/05/2020 is being made which shall be now read as under:-

“ Ld.Senior Counsel Sh.Hariharan with Sh.Ravi Drall,Advocate and Sh. Mohd.Irshad Advocate for the Applicant / Accused Parkash Jarwal.

Sh. Manish Rawat,Ld. Addl.PP for the State with I.O.

Ld. Counsel Sh. Tanveer Ahmed Mir with Sh. Ravinder Singh, Advocate for the Complainant”

5. A copy of this order is being sent through Whats App to Sh. Vivek P.A. to Ld. District & Sessions Judge-cum-Special Judge (PC Act), Rouse



Avenue District Courts, New Delhi, with a direction to him to upload the same on official website of Delhi District Courts at the earliest. A signed hard copy of the order shall be sent to the concerned court as soon as work is resumed from the Court premises of Rouse Avenue District Courts, New Delhi.



28/05/2020

AJK
28/05/2020

Ajay Kumar Kuhar

ASJ/Special Judge, CBI – 09 (PC Act)

Rouse Avenue District Court

New Delhi

AJAY KUMAR KUHAR
Special Judge (PC Act) CBI-09
Court No. 502, Fifth Floor
Rouse Avenue Court Complex
New Delhi