

**IN THE COURT OF MS. SUJATA KOHLI, PRINCIPAL DISTRICT &
SESSIONS JUDGE-CUM-SPECIAL JUDGE (PC ACT) (CBI), ROUSE
AVENUE DISTRICT COURT, NEW DELHI**

CC No. 42/2019

RC No. 217/2018/A/0004/CBI

CBI Vs. Upendra Rai and Anr.

08.10.2020

Present: Sh. Umesh Chandra Saxena, Sr. PP for CBI.
Sh. Arjun Mukherjee with Sh. Arjun Dewan, Advocate
for applicant/accused Upendra Rai (A-1).
IO/Dy. SP Surender Kumar Rohilla from AC-II, CBI, New
Delhi.

Matter was taken up in terms of orders of Hon'ble High Court
bearing No. 26/DHC/2020 dated 30.07.2020 and 322/RG/DHC/2020
dated 15.08.2020, through "Hyperlink URL For Conferencing Via Cisco
Webex."

This is an application moved on behalf of applicant/accused
seeking permission to travel abroad i.e. Dubai, UAE w.e.f. 08.10.2020 to
16.10.2020.

Arguments addressed by both parties.

Put up for orders at 04.30 PM.

(SUJATA KOHLI)

Principal District & Sessions Judge-cum-Spl. Judge
(PC Act) (CBI)/RADC/ND/08.10.2020

08.10.2020

Present: Sh. Umesh Chandra Saxena, Sr. PP for CBI.
Sh. Arjun Mukherjee with Sh. Shahryar Khan, Advocate
for applicant/accused Upendra Rai (A-1).
IO/Dy. SP Surender Kumar Rohilla from AC-II, CBI, New
Delhi.

Vide separate detailed order passed today, the application is
allowed.

**Put up for furnishing/producing documents in original on
09.10.2020 at 02.30 PM.**

Application disposed of.

A copy of the detailed order be provided to Ld. Counsel for the parties electronically.

A copy of the detailed order as well as this order be sent to the Computer Branch to be uploaded on the official website.

(SUJATA KOHLI)

Principal District & Sessions Judge-cum-Spl. Judge
(PC Act) (CBI)/RADC/ND/08.10.2020

CBI No. 106/2019

CBI Vs. M/s Saras Cab and Others

08.10.2020

Present: Sh. Umesh Chandra Saxena, Sr. PP for CBI.
Sh. S. K. Saxena with Ms. Manisha Sharma, Advocate for A-1, A-2 and A-3.
Sh. D. S. Kohli, Advocate for A-4.
Sh. Pankaj Garg, Advocate for A-5.

Matter was taken up in terms of orders of Hon'ble High Court bearing No. 26/DHC/2020 dated 30.07.2020 and 322/RG/DHC/2020 dated 15.08.2020, through "Hyperlink URL For Conferencing Via Cisco Webex."

Matter is at the stage of prosecution evidence.

However, in the meantime an application under Section 320(2) CrPC, 1973 seeking permission for compounding of the offences under Section 120 IPC read with 420, 468, 471 IPC and 13(2), 13(1)(d) PC Act, 1988, is moved on behalf of A-5.

Preliminary hearing given on the application.

Copy of the application has already been supplied to the Ld. Sr. PP for CBI.

As requested, let copy of the application be supplied to Ld. Counsel(s) for other accused.

Reply, if any, be filed well in advance after serving a copy of the same to the opposite party.

Put up for final hearing/disposal of the application on 17.10.2020 at 02.30 PM through VC.

Hard copy of this ordersheet be placed on record on the next scheduled day for physical hearings by this Court.

A copy of this order be sent to the Computer Branch to be uploaded on the official website.

(SUJATA KOHLI)

Principal District & Sessions Judge-cum-Spl. Judge
(PC Act) (CBI)/RADG/ND/08.10.2020

**IN THE COURT OF MS. SUJATA KOHLI, PRINCIPAL DISTRICT &
SESSIONS JUDGE-CUM-SPECIAL JUDGE (PC ACT) (CBI), ROUSE
AVENUE DISTRICT COURT, NEW DELHI**

Crl. Revision No. 09/2020

Subhash Chander Wadhwa Vs. CBI

08.10.2020

Present: None.

The instant matter is at the stage of final arguments.

However, in view of the administrative exigencies i.e. sudden spate in COVID 19 cases at RADC and the necessary management/arrangements thereof, I deem it appropriate that some matters be transferred to other courts at RADC.

Accordingly, the instant matter stands transferred from this Court and is assigned to the Court of **Ms. Anuradha Shukla Bhardwaj, Ld. Special Judge (PC Act) (CBI)-21, RADC/ND**, for disposal in accordance with law.

Ld. Counsel(s)/parties are directed to appear before the transferee Court on 13.10.2020 at 02.30 PM through VC/physical Court hearing. Parties be informed accordingly.

Ahlmad is directed to send the file, complete in all respects, to the transferee Court immediately.

A copy of this order be sent to the Computer Branch to be uploaded on the official website.

A copy of this order be sent to the Computer Branch to be uploaded on the official website.

(SUJATA KOHLI)

Principal District & Sessions Judge-cum-Spl. Judge
(PC Act) (CBI)/RADC/ND/08.10.2020

**IN THE COURT OF MS. SUJATA KOHLI, PRINCIPAL DISTRICT & SESSIONS
JUDGE-CUM-SPECIAL JUDGE (PC ACT) (CBI), ROUSE AVENUE DISTRICT
COURT, NEW DELHI**

**CC No. 42/2019
RC No. 217/2018/A/0004/CBI
CBI Vs. Upendra Rai and Anr.**

08.10.2020

**Order on application moved on behalf of applicant/accused Upendra
Rai seeing permission to travel to Dubai, UAE w.e.f. 08.10.2020 to
16.10.2020**

ORDER

1. The case was received on 07.10.2020 from the Court of Sh. Shailender Malik Ld. Special Judge (PC Act) (CBI), Rouse Avenue District Court, Delhi vide proceeding dated 05.10.2020 and was adjourned to 16.10.2020 for consideration on the aspect of transfer the case.

2. On 07.10.2020 itself, after the main matter was already adjourned, the instant application was moved on the ground that applicant/accused has to travel abroad i.e. Dubai from 08th October 2020 till 16th October 2020 to attend meetings with potential investors in relation to raising investments in SAHARA India TV Network and SAHARA India Mass Communications Pvt Ltd.

3. Brief facts of the case are that the instant case was registered by the CBI vide RC No. RC2172018A0004/CBI/ACU-VI/AC-II/New Delhi under Section 120-B, 384 IPC and Section 8 of PC Act 1988 against accused Upendra Rai (applicant), Rahul Sharma and unknown officials of Income Tax Department, Mumbai and other unknown public servants and private persons on 05.05.2018 on the basis of complaint of one Balvinder S. Malhotra, Director M/s White Lion Real Estate Developers Private Limited (WLREDPL), Mumbai.

4. The charge-sheet was filed against the applicant/accused under Section 120-B read with Section 384 IPC and Section 8 of PC Act 1988 and substantive offences thereof on 06.09.2018.

5. The applicant/accused was granted bail by Hon'ble High Court on 11.12.2018 with one of the conditions that the applicant/accused will not leave the country without prior permission of the trial court.

6. Ld. Counsel for the applicant/accused submits that applicant/accused has been entrusted with the responsibility by its employer to meet the potential investors. The said meetings are organized by M/s RPMG Investments LLC having its address at P.O. Box No. 50681, 146th Floor, Burj Khalifa, Downtown, Dubai UAE.

7. It is contended that the present application is necessitated as whilst the applicant was granted bail by the Hon'ble High Court vide order dated 11.12.2018, the Hon'ble High Court had imposed a condition that applicant shall not leave the country without the permission of the Trial Court.

8. It is further contended that travel of applicant/accused is necessitated on account of his obligations as an employee. The applicant/accused has never misused the liberty since released on bail. There is no apprehension of the applicant/accused fleeing from justice or hindering the proceedings and undertakes to be duly represented by counsel in the event any date of hearing may coincide with his travel and shall not dispute the outcome of the proceedings. It is further contended that the applicant/accused does not have any properties (immovable or movable) situated in U.A.E and therefore, there is no apprehension that he will flee from the country. The applicant/accused has a family in Delhi, India and thus there is no apprehension of his fleeing from justice.

9. It is further submitted that the applicant/accused has two minor children who are residing with him at his residential house in Delhi. Vide order dated order dated 18.12.2019 and 09.01.2020, the applicant/accused

has been granted permission to travel abroad to different countries and he never misused the liberty and returned on time abiding by the conditions imposed upon him. There is no apprehension of the applicant/accused fleeing from justice. It is prayed that the application may be allowed.

10. On the other hand, Ld. Sr. PP for CBI contends that the applicant/accused has been found to have, prima-facie, committed serious offences punishable under Sections 120-B, 384 IPC and Sec. 8 of PC Act 1988. In modern era of information-technology, contact may be established with anyone anywhere in the world through video conference and there is no requirement of physical presence for communication. The applicant accused is at liberty to adopt electronic modes of communication to attend meeting instead of leaving the country. The earlier permission granted to visit abroad does not constitute any right to accused to grant further permission to visit Dubai.

11. It is further contended that it is not necessary for the applicant/accused to visit foreign countries for fulfilment of such business requirements. It is apprehended that the applicant/accused has ulterior motives behind seeking permission to visit Dubai and may evade trial by not returning to India, if allowed to leave the country. He may flee to another country with whom India does not have extradition treaty. It is prayed that that the application of the applicant/accused may be dismissed in the interest of justice.

12. Ld. Counsel for the applicant/accused has submitted at bar that Directorate of Enforcement refused to receive the copy of the application. He has also sent screen-shot of reply received through email from concerned Ld. Spl. PP for Directorate of Enforcement, which is as under:

“Sir,

You are requested to serve notice to Ld PP/SPP for CBI as I am one of the SPP for Directorate of Enforcement in a Prosecution Complaint case titled as ED vs Upendra pending before the Hon'ble Court of Sh Dharmendra

Rana Special Court (PMLA) Patiala House New Delhi. However matter regarding 44(1)(c) PMLA is pending for consideration before the Hon'ble District & Session Judge Rouse Avenue is fixed for 16/10/20 as informed by the Staff..”

I have heard the arguments addressed by Ld. Counsel(s) for both parties and gone through the record.

13. No doubt, as rightly contended by Ld. Sr. PP, that in today's era of Covid-19, when majority of businesses in corporate houses and elsewhere are being carried on through VC, there is hardly any need to be physically present for a meeting, however, it is equally strong an argument addressed on the side of the applicant that while developing a business and investing money, it is but natural that the party, who has to invest, does need to meet the persons concerned and it does take time to build a relationship, VC cannot be a substitute all the time. The documents may have to be physically produced and even signed. Not everybody may be having digital signatures, and not everybody may be familiar or equipped to use App for signing etc.

14. Above all, the submissions addressed by the Ld. Counsel for the applicant, which has impressed upon this Court most, it is only that it is true that while developing a business relationship, it is indeed sometimes important that one party is present before the other in person.

15. Further also, the fact that the applicant has been granted these kinds of permissions in the past and does not seem to have misused the same, also the fact that various of his properties lie attached, and also the fact that there is an extradition treaty between the country(s) sought to be visited, I see no prejudice being caused, if the permission sought is granted.

16. These are indeed the weighing circumstances with the Court, apart from that, it is also a fact that the trials like these take quite a few years and even decades to be decided, which is a hard and bitter truth, and it would not be in the interest of justice, to keep an accused prevented for an eternity, from his basic right of livelihood to be carried out by him in the best manner

possible. Had it been the position where such like trials stood concluded within one year or maximum two, such like embargoes would have been in place, but in the presence scenario in the Indian Courts, it will not be conducive to the interest of justice.

17. Accordingly, keeping in view all the facts and circumstances, I deem it appropriate to grant the permission as sought, however, in order to safeguard the concerns as brought for by the prosecution, and to prevent the accused from fleeing the process of law at any stage, the permission is granted subject only to the following conditions:

- i. Applicant/accused shall furnish security in the form of **Bank Guarantee for a sum of Rs. 50 Lacs** or **alternatively** to furnish the **FDR of the like amount within 2 working days**.
- ii. Applicant/accused would furnish an **affidavit** giving details of his programme including the country where he would be visiting, the place where he would stay along with details of telephone, address etc., before his departure.
- iii. Applicant/accused would also give details in his above-mentioned **affidavit** of name of clients, companies whom he proposes to meet outside India.
- iv. Applicant/accused would also give all the details as directed above and intimate about his departure from India 48 hours prior to and similarly would also inform his arrival into India within 48 hours.
- v. Applicant/accused will also produce surety/sureties given as per his surety bond or his statement to the effect that he/they have no objection of accused going abroad as prayed within two days from today.
- vi. Applicant/accused would also furnish in the Court attested copy of his passport along with copy of Visa of the country where he proposed to visit on his return from the abroad.
- vii. If any of the abovementioned conditions, is violated, his Bank

Guarantee/FDR would stand forfeited to the State.

18. **The above order is conditional one that accused/applicant going alone to Dubai, UAE and not with his family.**

19. **Put up for furnishing/producing documents in original on 09.10.2020 at 02.30 PM.**

Application stands disposed of.

A copy of this order be provided to Ld. Counsel for the parties electronically.

A copy of this order be sent to the Computer Branch to be uploaded on the official website.

**Announced through VC
today on 08.10.2020.**

(SUJATA KOHLI)

Principal District & Sessions Judge-cum-
Spl. Judge (PC Act) (CBI)/RADC/ND