

IN THE COURT OF SHRI CHANDRA SHEKHAR, SPECIAL JUDGE
CBI-19 (PC ACT), ROUSE AVENUE DISTRICT COURTS, NEW
DELHI

Ref. : RCAC-1, 2020A0004
registered U/s: 7A, 8, 9, 10 & 12
of PC Act, 1988, R/W Sec. 120-B
of IPC.
CBI Vs. N.M.P. Sinha & ors.

07.11.2020

Presence as on 03.11.2020

(Through CISCO Webex Meetings App)

Ld. Counsel Sh. Bhavook Chauhan and Ld. Counsel Ms.
Payal Jain for accused N.M.P. Sinha.

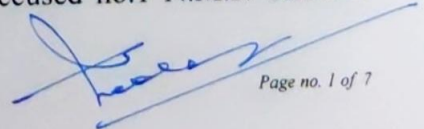
Sh. Raman Kumar, Ld. Sr. Public Prosecutor and Sh. Murari
Kumar Arya, Ld. Public Prosecutor for CBI.

IO Ravinder Kumar, Inspector of Police, CBI, AC-1, New
Delhi.

**ORDER ON BAIL APPLICATIONS OF ACCUSED
N.M.P. SINHA UNDER SECTION 439 OF Cr.P.C. 1973**

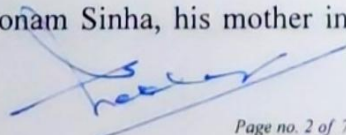
1. An application seeking regular bail was filed on behalf of accused N.M.P. Sinha before Ld. Principal District & Sessions Judge-cum-Special Judge (PC Act) Rouse Avenue District Courts, New Delhi, who assigned the same to this court for adjudication and disposal of the same.
2. A notice of the application was sent to CBI, which contested the application by filing reply, copy of the same was supplied to the Ld. Counsel of the accused.
3. On 03.11.2020, the submissions of both the parties on the aforesaid bail application were heard at length.

The case of CBI in brief, is that accused no.1 N.M.P. Sinha is



recently retired Superintendent of Police of CBI; he retired only on 31.08.2020; he during his service for considerable period and till his retirement was one of the supervisory officers of the case RC No.17(E)/2016 dated 20.09.2016 registered against one I. D. Paswan, the then Director (Mines), Govt. of Jharkhand, M/s Usha Martin Ltd., and other unknown persons. He during his service and after retirement was in conspiracy with accused no.2 Vinay Kumar Jalan, and other accused persons, who are named or unnamed in the FIR of the present case; he demanded an amount of Rs.50,00,000/- (Rs. Fifty lacs) from accused no.2 Vinay Kumar Jalan on 23.09.2020 during their meeting at Hotel ITC Maurya, New Delhi to use his influence over the CBI officers who were or are looking after the finalization of the investigation of the aforesaid case RC No. 17(E)/2016; the said amount was to be paid to him in installments; the accused no.2 Vinay Kumar Jalan delivered an amount of Rs. 25 lacs to accused no.1 N.M.P. Sinha; they both were intercepted on 02.10.2020 at Connaught Place, New Delhi and the said amount of Rs.25 Lacs was recovered on the same day from the residence of accused no.1 N.M.P. Sinha; the case was registered, both the accused persons were arrested and investigation of the case is going on.

4. Ld. Defence counsel on behalf of accused no.1 N.M.P. Sinha in brief has submitted that the allegations against the accused are false and the accused has a good defence to disclose at appropriate stage; the accused had retired on 31.08.2020 and hence was not in a position to influence the investigation of the R.C.No. 17(E)/2016 and the accused is not in a position to influence any witness or tamper with the any evidence; the recovery has already been effected; there is no possibility that accused will abscond or flee from justice; the accused is 60 years old and is suffering from multiple old age ailments; the accused has a responsibility to look after his wife Smt. Poonam Sinha, his mother in



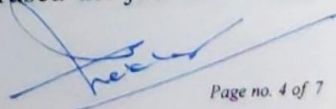
law Smt. Nirmla Singh and his sister in law Sushree Preeti Singh, who are also old and having ailments; the accused has two daughters, but one daughter is in Bangalore and the other daughter is in Noida; the accused is ready to abide by all the conditions imposed upon him for granting bail; the medical records of the accused and aforesaid persons are annexed with the application, the same have already been verified by CBI and the same are correct. Ld. Defence counsel has relied upon following case law to support his submissions : (i) Sanjay Chandra Vs. CBI MANU/SC/1375/2011; (ii) Ashok Sagar & ors Vs. State of NCT of Delhi MANU/D/ 2248/2018; (iii) P. Chidambaram Vs. Directorate of Enforcement MANU/SC/1670/2019.

5. Ld. Sr. Public Prosecutor for CBI has submitted that allegations against the accused are true and correct and are serious in nature; the accused is retired Superintendent of Police of CBI and is a very influential person; he was one of the supervisory officers of the aforesaid case RC No. 17(E)/2016 till his retirement; he is having good links in CBI and even with the officers who give expert opinions and knows the intricacies of the investigation very well since he remained part of investigating agency for about 35 years; the two confidential reports relating to the said case have been recovered from the residence of one of the employees of the accused company; the accused was passing the information related to the said case to co-accused Vinay Jalan, who is an Advocate and accused Rajeev Jhavar, who is Managing Director of the accused company; the accused Rajeev Jhavar is not joining the investigation despite three notices and application seeking issuance of non-bailable warrants against him has already been moved by CBI; the accused N.M.P. Sinha and accused Rajeev Jhavar are required to be confronted with each other; the case diary and evidence since collected during the course of investigation shall be produced physically before

the court; the involvement of other public servants and private persons is still to be unearthed; the case is at crucial stage; if the accused is released on bail, the accused will certainly influence the witnesses, temper with evidence, which is yet to be collected; the accused and any of his family members or relatives are not seriously ill and there are other persons who may assist them in case of emergency; the relatives of the accused are not residing with him but living independently and separately, they are not dependent upon the accused; the adequate medical facility is provided to the accused in Jail; the accused has damaged the image of CBI; the investigation of the case is being carried out expeditiously; the case law cited by Ld. Defence counsel is not applicable in the facts and circumstances of the case; Ld. Sr. Public Prosecutor has cited (i) State Vs. Bal Chand AIR 1977 SC 3447; (ii) Gurcharan Singh Vs. State AIR 1978 SC 179; (iii) State Vs. Jaspal AIR 1994; (iv) Shahzad Vs. Istiaq AIR 1987; (v) State Vs. Anand AIR 1990; (vi) Ram Govind Vs. Sudershan 2002; (vii) State Vs. Budhi Kota AIR 1989; (viii) State Vs. Rajinder Prasad 1994; (ix) State Vs. Sita Ram 2004; and (x) Pendurang Vs. State 2005 to support his submissions.

6. Ld. Defence counsel in rebuttal has submitted that the accused may not be detained for punitive or preventive purposes, there is no presumption that accused will flee; the apprehension of CBI is not supported by any evidence, the submission of CBI that accused will influence the witness or tamper with evidence is without any basis; the bail may not be denied only on the ground that the offence is of serious in nature; the family members and relatives of the accused are seriously ill and they are dependent on the accused as there is no other male member to look after them.

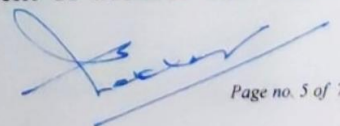
7. I have considered the submissions of Ld. Defence counsel for the accused, Ld. Sr. Public Prosecutor for CBI, perused the judicial record,



cited case law and relevant provisions of law.

(A). It is writ large that bail is the rule and jail is the exception, but application of rule enormously depends on judicial discretion, which is guided by some significant and judicially recognized valuable factors which are required to be considered at the time of deciding bail application. In brief, the same are considering nature and gravity of offence; the antecedents of accused; circumstances peculiar to the accused; apprehension of tampering of evidence; possibility of influencing the witnesses; securing the presence of accused and weighing and balancing liberty of the accused and larger public interest. Therefore, these factors are required to be considered while deciding the present bail application of the accused.

(B). The Ld. Defence counsel has submitted that the accused had retired on 31.08.2020, hence, he was not in a position to influence the investigation of RC No. 17(E)/2016. The submission of Ld. Defence counsel is not tenable in view of submissions of Ld. Senior Public Prosecutor for CBI that the accused is retired Superintendent of Police of CBI and is a very influential person; he was one of the supervisory officers of the aforesaid case RC No. 17(E)/2016 till his retirement; he is having good links in CBI and even with the officers who give expert opinions and knows the intricacies of the investigation very well since he remained part of investigating agency for about 35 years. The apprehension of CBI seems to be legitimate and reasonable since; it is easily comprehensible that capacity to influence does not ipso facto end on the date of retirement, more so, when conspiracy was allegedly going on much prior to date of retirement. The alleged recovery of two confidential reports from the house of one of employees of the accused company clearly indicates that conspiracy to favor the accused company was going on much prior to date of retirement of accused no.1 NMP



Sinha. It is also significant that legally CBI is not required to prove at any point of time or stage of the case that accused was in fact in a position to influence the CBI officers. Therefore, this submission of Ld. Defence counsel is not accepted.

The Ld. Defence counsel has submitted that accused is not in a position to influence any witness and tamper with any evidence. The apprehension of the CBI is that accused having being retired from very senior position is in a position to influence the witnesses and tamper with the evidence. The apprehension of CBI seems to be plausible keeping in view aforesaid service background of the accused, the stage of the investigation, the fact that allegedly conspiracy was going on prior to date of retirement of accused and the fact that who are other officers of CBI involved with accused and their modus operandi is in personal knowledge of accused no.1 NMP Sinha only. The CBI has yet to investigate on all the said aspects. Some of the accused, who are allegedly part of conspiracy and beneficiary have not joined the investigation, they are required to be confronted with the accused no.1 NMP Sinha, the release of accused at this stage may adversely affect the investigation therefore it seems that aforesaid submission of Ld. Defence counsel is not acceptable at this stage.

The Ld. Defence counsel has submitted that there is no possibility that the accused may flee and abscond from justice; this factor may be decided in favour of accused no.1 and even this aspect can be taken care of by imposing appropriate conditions, however, keeping in view the above observations, this factor alone does not entitle the accused to bail.

The Ld. Defence Counsel has submitted that the accused and his dependent family members are suffering from several serious ailments and relatives are totally dependent on the accused no.1. But the judicial record shows that accused is residing in Faridabad with his wife and

other relatives are living in Noida, therefore, no inference can be drawn that the relatives who are living in Noida are wholly and solely dependent upon the accused N.M.P. Sinha only. Moreover, there is nothing in the medical record of any of the relative of the accused or medical record of accused himself, which necessitates immediate release of the accused on humanitarian or medical grounds.

The submissions of Ld. Defence counsel that the accused may not be detained for punitive or preventive purposes has ample force and the submissions of Ld. Sr. Public Prosecutor that accused has damaged the image of CBI cannot be accepted as the same is not an acceptable factor to be considered at the time of deciding the bail application.

In view of the above observations, it seems it is not in the interest of justice to grant bail to the accused at this stage and dismiss the same in larger public interest; hence the bail application of accused N.M.P. Sinha is dismissed and disposed of accordingly. Nothing said herein shall tantamount to any aspersion on merits of the case at any stage.

A copy of this order is being sent through Whats App to Sh. Raj Kumar, Reader of this court with a direction to send a Whats App copy of the order to the respective counsel of the parties at the earliest. A signed hard copy of the order shall be placed on record as soon as work is resumed from the Court premises of Rouse Avenue District Courts, New Delhi.



CHANDRA SHEKHAR
Special Judge, CBI-19 (PC Act)
Rouse Avenue Courts, New Delhi
07.11.2020