

27.07.2020

CC No. 63/2019

Present: Sh. B.K. Singh Ld. Sr. P.P. for CBI.

Accused No. 1 Sh. D.S Sandhu and Accused No. 5 Smt. Sudershan Kapoor in person along with Ld. Counsels Sh. Y. Kahol and Sh. Deepak Sharma.

Accused No. 12 Sh. Vikas Srivastava in person alongwith Ld. Counsels Sh. I.D. Vaid and Sh.Dhruv Sehrawat.

Accused No. 7 Sh. Amit Kapoor along with Ld. Counsel Sh. Manoj Pant.

Accused No. 6 Sh. Ashwani Dhingra and Accused No. 8 Sh. Rishiraj Behl in person along with Ld. Counsel Sh. M.K. Verma who represents Accused No.11 Sh. D.B.Singh also.

(Through VC using Cisco Webex App.)

All the learned defence counsels have already concluded their arguments.

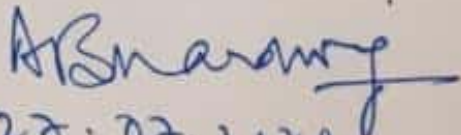
Today, the learned Senior PP for CBI has to address in rebuttal.

The learned Senior PP for CBI submitted that he will first address arguments with regard to the accused Shri Vikas Srivastava. He submitted that the learned counsel representing this accused has taken an objection that the documents relied on by prosecution to prove the guilt of this accused were not part of the chargesheet and cannot be relied on. The learned Senior PP for CBI submitted that the documents were not part of the chargesheet but came on record properly. He submitted that on the submissions of HIO Shri Manoj Kumar these documents were taken on record from the case pending before another learned Special Judge, Saket, New Delhi where these documents were D-422 to D-435. They were summoned in this court on 8<sup>th</sup> February 2016 and the originals were compared and only then the photocopies were taken on record. This was in the presence of the accused and the learned counsels for the accused. Therefore, he submitted there is no infirmity in taking these documents on record. Reliance is placed on latest decision of the Hon'ble Supreme Court in the case of Pundit Arjun Rao, CBI versus RS Pai 2002 SCC (5) 82 and CBI versus N.Subramanian AIR 2019 SC 3232. It was submitted that the provisions of law namely section 91 and section 311 of CrPC and section 165 of the Evidence Act enable the court to take on record documents which were not part of the chargesheet.

Learned Senior PP for CBI submitted that PW-23 has proved signatures of Shri Vikas Srivastava on the cheque Exhibit PW-23/H. The learned counsel submitted that under section 106 of the Evidence Act, it was for Shri Vikas Srivastava to explain how his signatures came on the backside of the cheque i.e. PW-23/H-1.

Learned Senior PP for CBI submitted that it was also argued on behalf of this accused that other persons who had identical role as this accused have been let of and only this accused has been prosecuted. He submitted that the prosecution has to see the component of crime and whosoever helped in crime has been made a party. For others there was no evidence like introducing the account of Co accused. This accused helped in siphoning of funds of Central Bank of India and therefore has been made an accused of conspiracy.

Addressing with regard to accused DB Singh, the learned counsel submitted that no accused has proved why they had received the money from accused No. 1 Shri Dilbhajan Singh Sandhu. He

  
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submitted that in the case of conspiracy, direct evidence is hardly available and conduct is proof of conspiracy. The learned Senior PP for CBI relied on *State of MP versus Ram Singh*. It was submitted that the accused has not shown any prejudice in case the investigation was by sub Inspector of CBI. He submitted that a fact admitted need not be proved. He submitted that the accused Shri DB Singh has not denied the opening of account in question, specimen signature card, pay in slips and demand drafts deposited in that account. He submitted to the arguments addressed on behalf of this accused that Shri DB Singh is a moneylender and had given a loan of Rs. 13.50 lakhs Shri Ashwani Dhingra and that is why he had given him two demand drafts. He submitted that there is no evidence that accused Shri DB Singh was a moneylender. It was submitted that a voluntary deposition by PW-23 that at the time of opening the account Shri DB Singh had told him that he was a moneylender will not prove that Shri DB Singh was a moneylender. It was submitted that no register/diary/record were produced to show that Shri DB Singh was a moneylender. It was submitted that the demand drafts were in the name of DB Singh and not in the name of Shri Ashwani Dhingra and it is suggestive of conspiracy amongst Shri DB Singh, Shri Ashwani Dhingra and Shri Dilbhajan Singh Sandhu.

So far as the accused Shri Rishi Raj Behl is concerned, it was submitted that two demand drafts of Shri Dilbhajan Singh Sandhu were credited in his bank account. The account opening form, affidavit and the cheques have been proved. Again relying on section 106 of the Evidence Act it was submitted that it was for this accused to explain why this money was received by him from the accused Shri Dilbhajan Singh Sandhu.

With regard to the accused Shri Amit Kapoor, the learned Senior PP for CBI admitted that prosecution could not prove the signatures of this accused to link him with M/s. Kavika. It was submitted that prosecution has proved only the seizure memos and statement of account. It was submitted that the enquiry officers have discussed the role of this accused in their reports but they were not cross examined in this regard.

With regard to the accused Smt. Sudarshan Kapoor it was argued that the applications for the loan given by the three borrowers were undated. The applications mentioned no details of agency of Mahindra and Mahindra. The learned counsel submitted that an objection was taken by learned counsel for this accused that prosecution is relying on photocopies of documents and not the original. It was submitted that two third of the documents are original and remaining documents have been certified true copies of the originals. The learned counsel submitted that all the three applications of the borrowers state that "as discussed with you earlier" and there is no reference to their discussion with the Regional Manager. It is submitted that none of the borrower has mentioned that they will deposit Rs. 30 lakhs but it was mentioned in the recommendation letter falsely which shows the conspiracy. It was submitted that one of the conditions of sanction is deposit of Rs. 30 lakhs but Smt. Sudarshan Kapoor did not insist on this deposit and while disbursing the loan did not withhold at least Rs. 30 lakhs in the overdraft account. It was submitted that she should have sought clarifications not from a sub post office but from the GPO Kanpur with regard to genuineness of KVPs. She should have insisted on letter of lien rather than mere stamping on application of Central Bank of India. It was submitted that she was agreeable with 9 KVPs given by Shri Amamath Rastogi after creation of lien and accepted remaining KVPs from the borrower personally. It was submitted that for verification of KVPs, Central Bank of India, Kanpur could have been approached. It was submitted that it should have been a cause of suspicion for her that the borrowers were depositing KVPs of huge amount of Rs. 2 Crores for taking a loan of Rs. 1.50 Crore. It should have also raised suspicion that the borrowers had nothing to do with Kanpur and were submitting huge KVPs from post office of Kanpur. It was submitted that end use by the borrower was not supervised by her and all the demand drafts were issued under her signatures. The learned senior PP for CBI submitted that it is an argument that the receipts for creation of lien were not investigated upon by the investigating officer. It was submitted that no accused is saying that he had purchased the KVPs from such and such Post Office or they are genuine KVPs. It was submitted when Smt. Sudarshan Kapoor came to know about the fraud she did not file any complaint against concerned Post Office for false creation of lien and false



issuance of receipts. She took no action against Shri Amarnath Rastogi. (At this stage Shri Yudhishtar Kahol learned counsel for accused submitted that in that event, nothing is required to be done by the investigating officer.) It was further submitted that accused No. 1 Dilbhajan Singh Sandhu had offered security of other immovable property including LIC when it was discovered that the KVPs were fake. It was submitted that this conduct of accused No. 1 Dilbhajan Singh Sandhu also proves that the KVPs were fake. The mere fact that one time settlement was arrived at by accused No. 1 Dilbhajan Singh Sandhu who paid more than Rs. 90 lakhs is also proving that the KVPs were fake. The learned Senior PP for CBI submitted that criminal misappropriation of property is also covered under section 411 of IPC. He submitted that a document can be forged in part also. He submitted that when PW 41 entered the witness box he was not asked a question whether there are 2 post offices at Armapur and Amanpore. (Shri Y. Kahol learned counsel for accused No. 1 and accused No. 5 submitted that this witness had nothing to do with working of post offices or sub post offices offices at the relevant time.). The learned Senior PP for CBI referred to several judgements to show that one time settlement deals with civil liability and not with criminal liability.

With regard to the accused Shri Ashwani Dhingra, it was submitted that there is evidence against this accused in enquiry reports of the vigilance officers of the bank. However it was submitted that the witness Shri Katoria has not proved the signatures of this accused on the back of the cheques for withdrawing money from the account of M/s. Oriental Automobiles Limited.

With this, arguments concluded.

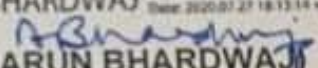
As informed by the Reader of this court, the bonds under section 437A of CrPC are to be furnished by the accused Shri Ashwani Dhingra and Shri DB Singh. The learned counsel representing these accused submitted that the same shall be filed within 3 days.

Shri Y. Kahol learned counsel for accused No. 1 and accused No. 5 requested for 15 minutes time to address arguments with regard to the submissions made by learned Senior PP for CBI in rebuttal.

The learned defence counsels have argued in detail on the previous dates. Today was the date for arguments in rebuttal by learned Senior PP for CBI. In case, any learned counsel wishes to place any further submission before the court he may do so by filing the same within 2 days.

At this stage, Shri Y. Kahol requested that the time be extended to 4 days for filing submissions in this regard. Request allowed.

List for final orders on 6th August 2020 at 11 AM at Rouse Avenue District Court when all the accused shall remain present in person.

ARUN BHARDWAJ Digitally signed by ARUN BHARDWAJ  
Date: 2020.07.27 18:13:14 +05'30'  
  
(ARUN BHARDWAJ)  
Special Judge (P.C. Act)(CBI-05)  
Rouse Avenue District Court,  
New Delhi/27.07.2020

**CBI Vs. Shri Sunny Kalra & Others.**  
**CC No. 246/19**

**27.07.2020**

Present: Sh. B.K. Singh Ld. Sr. P.P. for CBI along with IO Inspector Sh. S. Sridhar Aaiyar.

Accused No. 1 Sh. Sunny Kalra in person along with Ld. Counsel Sh. Bharat Gupta.

Accused No. 2 M/s Samadhan Management, Accused No. 7 Sh. Rajesh Goyal and Accused No. 8 Sh. Amit Aggarwal along with Ld. Counsel Sh. C.S. Gupta.

None for Accused No. 3 Sh. Pavan Arya.

Accused No. 5 Sh. A.R.K. Prasad and Accused No. 6 Sh. G. Balasubramanian in person along with Ld. Counsel Sh. Krishan Kumar Nagar.

Accused No. 9 Sh. Puran Nath Juneja in person with Ld. Counsel Sh. Hitender Kapoor.

Accused No. 10 Sh. Anil Kumar Goel in person along with Ld. Counsel Sh. Yogesh Verma.

None for Accused No. 11 Sh. Madan Lal Nasa.

**(Through VC using Cisco Webex App.)**

Ld. Counsel for Accused No. 1 Sh. Sunny Kalra submits that he be given three days time to file application for bail. Request allowed.

Application for bail with vakalatnama has been filed on behalf of Accused No. 7 Sh. Rajesh Goyal and Accused No. 8 Sh. Amit Aggarwal through their Ld. Counsel Sh. C.S. Gupta. Soft copy be supplied by the Reader of the court to the Ld. Sr. PP for CBI who shall file the reply on the next date. Till further orders, Accused No. 7 Sh. Rajesh Goyal and Accused No. 8 Sh. Sh. Amit Aggarwal are admitted to interim bail on furnishing personal and surety bond in the sum of Rs.50,000/- each. The bond be filed online and hard copy be filed on re-opening of the courts. The accused shall not leave the country without permission of court. The learned counsel will

also file application for representing Accused No. 2 M/s Samadhan Management.

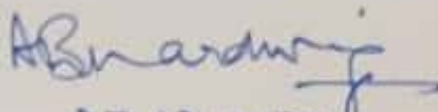
Sh. Hitender Kapoor, Ld. Counsel for Accused No. 9 Sh. Puran Nath Juneja has already filed application for bail which was provided to Ld. Sr. PP for CBI, who has filed reply. The Reader of the court shall supply copy of reply to the Ld. Counsel for the accused. The accused, till further orders is admitted to interim bail on furnishing of personal and surety bond in the sum of Rs.50,000/-. The bail bond be filed online and hard copy be filed on re-opening of the courts. The accused shall not leave the country without permission of the court.

Application for bail has also been filed by Accused No. 10 Sh. Anil Kumar Goel. Soft copy be supplied by the Reader of the court to the Ld. Sr. PP for CBI who shall file the reply on the next date. Till further orders, Accused No. 10 Sh. Anil Kumar Goel is admitted on interim bail on furnishing personal and surety bond in the sum of Rs.50,000/-. The bail bond be filed online and hard copy be filed on re-opening of the courts. The accused shall not leave the country without permission of court.

Learned counsel for Accused No. 5 and Accused No.6 requested for two days time to file the application for bail. Request allowed. However, they shall not leave the country without leave of the court.

This court has not summoned Shri Robin Davis who is accused no.4 in the chargesheet for want of sanction. By oversight, the court staff has issued whatsapp message to Mr. Robin Davis also to attend the hearing through VC. Mr. Robin Davis is present in VC alongwith learned counsel Shri Rakesh Sehrawat. It is clarified that since at present this court has not issued summons against Mr. Robin Davis for want of sanction, he is not required to attend any hearing in this case.

Fresh summons be issued through IO of the case additionally for unserved accused no. 3 Shri Pavan Arya and Accused No. 11 Shri Madan Lal Nasa.

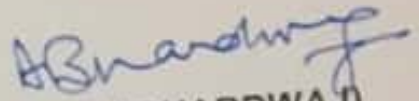
  
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The Ld. District & Sessions Judge, cum- Special Judge, CBI, PC Act, Rouse Avenue District Court, New Delhi has adjourned this case en-block to 29.08.2020.

Now, the case shall be taken up on 29.08.2020 at 11:00 AM.

Let a copy of this order be sent by WhatsApp to Ld. Sr. PP for CBI, all the accused persons and their learned counsels.



(ARUN BHARDWAJ)  
Special Judge (P.C. Act)(CBI-05)  
Rouse Avenue District Court,  
New Delhi/27.07.2020