

THE COURT OF ANURADHA SHUKLA BHARDWAJ JUDGE CBI – 21 ROUSE AVENUE DISTRICT COURT NEW
DELHI

Case no RC-DAI-2020-A-0016
U/S 7 of PC Act (as amended in 2018)

CBI versus Sanjeev Kumar

ORDER ON SECOND BAIL APPLICATION OF ACCUSED SANJEEV KUMAR

27-04-2020

This second bail application of accused Sanjeev Kumar was marked for disposal to this court by **Ms Sujata Kohli Ld. District & Sessions Judge RADC New Delhi**. The application has been taken up for hearing today on official instructions given in this regard communicated to undersigned by Sh Surender Mandal Branch Incharge/ JA, Computer Branch, RADC, New Delhi. The application is heard via **CISCO WEBEX MEETING APP** in view of the lockdown and consequential closure of the courts on account of **pandemic of Corona Virus**.

The hearing of the present application was taken up via aforesaid meeting app in the onscreen presence of

Sh. U. C. Saxena Senior PP from CBI

Inspector Bhanwar Lal Jat Inspector, IO of the case

Sh Rajeev Mohan Advocate, Counsel for the applicant

ORDER

1. Applicant Sanjeev Kumar had moved this second bail application under section 439 of Cr.P.C seeking grant of regular bail which was listed on 15-04-2020 and was adjourned for today. The first bail application of the accused was dismissed on 1-04-2020.
2. As per the allegations in the prosecution case the applicant had demanded bribe of Rs. 10 lakh from complainant Sanjay Gupta initially in the year 2018 to close a case against complainant being investigated by the applicant. The chargesheet was filed in the said case in which quashing

proceedings have been initiated. The second incident is stated to be related to his brother Rajiv Gupta. It is stated that the brother of the complainant had some disputes with him, which case was again marked to the applicant. The applicant demanded a sum of Rs 30 Lakhs from the complainant. Verification proceedings were initiated and taken up twice on 17-03-2020 & 18-03-2020. The accused was arrested under a trap on 19-03-2020 and since then he is in custody. It is alleged that from the car of the applicant an amount of RS 4 lakhs was recovered.

3. The application has been filed on the ground that the accused has been falsely implicated at the instance of the complainant who had a grudge against him as he was the investigating officer in the cases against the complainant and had filed charge-sheet in one of the cases. Nothing could be found in the first verification report. In the second verification also there is nothing against the accused showing a demand made by him. It was also argued that there is no likelihood of tampering of the evidence. The accused in the existing situation in the city will not be able to influence the witnesses. Earlier arguments were that nothing was recovered from the house search of the applicant. The alleged demand was made on 05-03-2020 and the complaint was given on 17-03-2020 after a delay of 12 days. It was also argued earlier that the accused is not required for investigation. No recovery is to be affected. The accused has no male member in his family. His wife is a private tutor and he has two daughters in class 12 and 6.
4. Ld. PP has opposed the application on the ground that there was a clear demand; recovery of Rs 4,00,000/ was effected from the car of the applicant by the independent witness. Investigation is going on. The applicant is in Delhi Police and is an influential person. The police officials are exempted from free movement under the lockdown and he can use his position to extend threats to the complainant.
5. Admittedly from the time of dismissal of first bail application of the accused - which was dismissed primarily on the ground that investigation in the matter was pending and statement of the witnesses including the complainant had not been recorded- there has been no progress, whatsoever, in the case. The IO was specifically asked as to the avenues available for recording the statement of the complainant and he made a categorical statement that nothing seems feasible in the current situation. There are no directions to the agency for continuing with the investigation. He as such cannot call the complainant or visit him to record the statement. He

stated that the documents were also to be collected which part of investigation will take its own course.

6. Ld Senior PP submitted that the Hon'ble Supreme Court has extended the period of limitation for civil suits and some such direction in the criminal matters may also be passed. No such directions have been issued so far for the criminal cases. Nevertheless the criminal cases are different from civil matters since the personal liberties of the persons affected are involved and provisions are made even during the period of vacation/closure of courts to ensure the compliance of provisions related to personal liberties.
7. The other objection taken by Ld PP was that the applicant is a Delhi Police Official and has liberty of free movement during the period of lockdown; he can therefore influence the complainant. Ld counsel for the applicant submitted that the applicant is willing to abide by any condition imposed in this regard. He also submitted that the applicant has been suspended and he shall surrender his I-card, batch etc, which should take care of the apprehension of Ld. Prosecutor regarding free movement of the applicant and consequential fear of influencing the witness.
8. Arguments heard and record submitted with application through email perused and considered.
9. The applicant is in custody since the day of his arrest on 19-03-2020. There is no progress in investigation from the time of dismissal of his first bail application. To be more precise no material investigation has been conducted from the time of his arrest itself. And although there is no fault of investigating agency; the fault is neither of the accused so to be read against him. He is otherwise not required for the purposes of investigation; nor is any recovery to be effected at his instance. As per IO's own admission there is uncertainty on when the investigation can resume the same lying suspended in the wake of lockdown.
10. In view of the extraordinary circumstances prevailing as on date and uncertainty attached to the situation, the application of accused Sanjeev Kumar is allowed. **The accused is directed to be released on bail on furnishing of personal bond in the sum of Rs One Lakh with one surety of**

like amount. In view of the directions of **Hon'ble Supreme Court in "Suo Moto Writ Petition no 1/2020 order dated 23-03-2020"** (in the present context of the Pandemic); and also the **directions of High Powered Committee of Hon'ble High Court (constituted on the directions of Hon'ble Supreme Court) contained in Minutes of Meeting dated 28-03-2020 and subsequent orders and directions** and also considering the restrictions on free movement the applicant shall as of now be released on furnishing of **personal bond only** of the aforesaid amount to the satisfaction of the Superintendent concerned. The accused shall furnish surety bond in above terms immediately on the reopening of the courts. The accused shall surrender all official identities to the officer concerned as per law/rules and shall not misuse his position to the prejudice of case of prosecution. He shall not leave the borders of Delhi during the period of lockdown and shall remain available on the call of investigating agency. The application stands disposed in above terms.

11. The accused shall be released as of now on personal bond to be submitted as per the procedure being adopted in this regard in the current situation. All the directions given by Hon,ble Supreme Court and Hon'ble High Court as also the Committee of Hon'ble High Court shall be complied with before releasing the accused, who shall also give an undertaking at the time of release that he shall follow the law & directions given in this regard at the time of and after his release.
12. A PDF copy of this order is being mailed to Sh Vivek Kumar on his email id guidevivek@gmail.com for further action. The order shall be communicated by Sh. Vivek Kumar to the Ld. Counsel for the applicant; Ld. Prosecutor and the IO and shall be sent to the Jail authorities as per the procedure being adopted in this regard. A copy of the order shall also be retained on record to be put in the judicial file as and when normalcy is restored. The order shall be uploaded on the website as well.

Dated 27-04-2020

Anuradha Shukla Bhardwaj
Special Judge PC Act
RADC New Delhi

