

**IN THE COURT OF SHRI HARJYOT SINGH BHALLA, CMM,
ROUSE AVENUE DISTRICT
COURTS, NEW DELHI**

RC-DAI-2017-A-0036

IN THE MATTER OF:

Central Bureau of Investigation ... Complainant

Versus

Deepak Talwar & Ors. ... Respondents

ORDER ON CLARIFICATION APPLICATION OF SH. DEEPAK
TALWAR

Present(through video Conferencing)

CBI APP Sh. JH Patel

Counsel for accused Sh. Tanvir A Mir

Sh.Surender, Administrative officer VC facility

Jail Supt concerned

ORDER

1. As per directions of the Ld. District & Sessions Judge-cum-Special Judge (PC Act), Rouse Avenue District Courts, New Delhi incorporated in the existing protocol as amended upto 21/4/2020 vide order bearing No 13/DJ/RADC/2020 a Clarification Application has been received by the undersigned by email alongwith a link for video conferencing. The application has accordingly been heard through video conferencing using CISCO WEBEX.

2. In view of the outbreak of COVID-19, the functioning of this Court is restricted only to urgent matters. Such restricted functioning has been in place from 16.03.2020 and has been extended from time to time, however, since 24.03.2020, when the Government of India issued order No.40-3/2020-DM-1(A) whereunder nationwide lockdown was declared for a period of 21 days w.e.f. from 25.03.2020 the court is functioning through Video Conferencing only for urgent

matters. The lockdown itself has been extended by subsequent orders/directions.

3. It was during such restricted functioning immediately before the lockdown that the order dated 23.3.2020 was passed by this court granting interim bail to the accused.

4. It has been informed that the accused was in custody in another case registered by ED and therefore he could not be released during the period envisaged in the said order. On 1.5.2020, the accused has been granted regular bail by the court of Sh A.K. Kuhar, Ld ASJ(Special Judge) Rouse Avenue and since the jail authorities have refused to release the accused due to the pendency of the present case the clarification application has been moved.

5. Counsel for the accused has relied upon the order dated 25.3.2020 passed by a bench comprising of three Hon'ble Judges(including his Lordship the Hon'ble Chief Justice) of the Delhi High Court in ***W.P. URGENT 2/2020 (To Be Numbered Subsequently) COURT ON ITS OWN MOTION, IN RE: Extension Of Interim Orders*** to contend that the interim order dated 23.3.2020 passed by this court also stood automatically extended in view of the directions passed in the said order. Relevant portion of the said order of the high court is reproduced hereinbelow:

Taking suo moto cognizance of the aforesaid extraordinary circumstances, under Article 226 & 227 of the Constitution of India, it is hereby ordered that in all matters pending before this court and courts subordinate to this court, wherein such interim orders issued were subsisting as on 16.03.2020 and expired or will expire thereafter, the same shall stand automatically extended till 15.05.2020 or until further orders, except where any orders to the contrary have been

passed by the Hon'ble Supreme Court of India in any particular matter, during the intervening period.

6. He submits that when the order dated 23.3.2020 was passed by this court, the court proceedings were still being conducted in the court complex concerned but only urgent matters were being taken up and therefore interim bail was granted till 15.4.2020, taking note of the Covid outbreak, with direction that the regular bail would be heard thereafter. However, after the passing of the order granting interim bail dated 23.3.2020, a nation wide lockdown was ordered and therefore the applicant cannot be treated any different from those accused who were granted interim bail prior to 16.3.2020 and who are squarely covered by the High Court order. Ld. APP has on the other hand opposed the application arguing the exact opposite.

7. Although the order dated 25.3.2020 passed by the high Court specifically mentions interim orders subsisting as on 16.3.2020, the purpose of the order is clearly to give protection to interim orders passed before restricted functioning of courts to prevent harassment and inconvenience to lawyers and litigants and to reduce fresh filing in the wake of restrictive functioning of the courts. I see no reason why interim orders passed after 16.3.2020 and before 25.3.2020 should be treated any differently unless specifically directed by the court concerned. In any event when the order dated 23.3.2020 was passed by this court, the GOI directions for lockdown had not been issued. Since the Court has not resumed regular functioning and the functioning continues to be restricted through video conferencing, the interim order ought to have been treated as extended. The very purpose of the interim protection would be defeated if the accused

continues to languish in Jail in the current situation. Therefore, in any event, to prevent any confusion it is directed that the interim bail is extended till the Court resumes normal functioning and the prevailing restrictions are recalled by appropriate Administrative Directions by the High Court/ Ld District and Sessions Judge. Counsel for accused has stated at Bar that bonds were furnished and duly accepted by the court. In any event, if any release warrants were issued by the court the same must be in the records of the Jail Authorities.

8. It is, therefore, directed that the Bail Bonds and Surety Bonds of accused Deepak Talwar, if any, already furnished shall stand extended and release warrants if any already issued and received by the Jail Authorities be honoured. If this court had not issued any release warrants at an earlier occasion, the accused may furnish fresh bonds before the Jail Duty Magistrate who may accept the same and direct his release.

HARJYOT SINGH BHALLA
CMM, CBI, ROUSE AVENUE COURTS
NEW DELHI / 4.5.2020