

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

ECIR/HQ/19/2017

U/S: 3, 4 PMLA, 2002

Deepak Talwar etc. v. Directorate of Enforcement

17.04.2020

Presence:

(Through CISCO WEBEX Meetings)

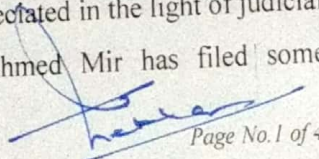
Ld. Sr. Counsel Sh. Hariharan with Ld. Defence Counsel Tanveer Ahmed Mir for applicant/accused Deepak Talwar. (The name of Ld. Counsel Tanveer Ahmed Mir was wrongly mentioned as *Mohd.* Tanveer Ahmed Mir in previous orders dated 07.04.2020 and 09.04.2020 due to inadvertence, the same is rectified today and the same be read as Sh. Tanveer Ahmed Mir.)

Ld. Special Counsel Sh. Amit Mahajan and Ld. Public Prosecutor Sh. Nitesh Rana with Sh. Prem Malik; Deputy Director for Enforcement Directorate.

ORDER ON SECOND APPLICATION U/S 439 Cr.P.C.  
SEEKING REGULAR BAIL TO ACCUSED  
DEEPAK TALWAR

Today, the second regular bail application of accused Deepak Talwar was fixed for hearing arguments on merits. As per previous order dated 09.04.2020, both the parties were directed to file all the relevant documents in digitized form (and exchange copies of the said documents with each other) so that the arguments addressed by them could be better appreciated in the light of judicial record. Ld. Counsel Sh. Tanveer Ahmed Mir has filed some



  
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documents/case law in e-form, but on behalf of Enforcement Directorate no document has been filed.

Ld. Special Counsel Sh. Amit Mahajan for Enforcement Directorate has submitted that the Enforcement Directorate has got scanned the relied upon documents and is willing to file the same in e-form, but unable to file the same due to security reasons; since the emails of the official of office of Ld. District & Sessions Judge cum Special Judge (P C Act) Ms. Sujata Kohli, Rouse Avenue District Courts New Delhi and this court are only open source internet based applications, the same are not secure as not prescribed or authorized by Hon'ble High Court of Delhi or Govt. of India. Moreover, the documents are voluminous and sensitive in nature, sharing may lead to leakage and may prejudice the rights of other parties and hamper further investigation of the case. Apart from this, the Enforcement Directorate has collected some documents from foreign countries, the same could not be scanned due to logistical and security reasons and Enforcement Directorate does not want to show said documents to the accused at this stage, before filing the same in the court. The Enforcement Directorate may be permitted to send relied upon relevant documents through *pendrive* and the documents collected during further investigation may be sent to the court at the residential address of Presiding Officer in physical form through Special Messenger.

Ld. Sr. Counsel Sh. Hariharan for accused Deepak Talwar has submitted that relied upon documents may be sent through e-mail in PDF form and the same may be password protected; the documents which are collected after filing of the complaint/charge sheet during further investigation, cannot be shown to the court as they are not relied upon documents. The present bail application of accused Deepak Talwar may be listed before the regular Court of Ld. ASJ Sh. A. K. Kuhar, Special Court, PMLA, RADC, New Delhi since the judicial record is not before this court but, the said Ld. regular court has already perused the



judicial record, taken cognizance of the offences and summoned the accused persons. Therefore, the regular court is in better position to deal with the present bail application.

Ld. Special Counsel Sh. Amit Mahajan for Enforcement Directorate has submitted that since the regular Court has already taken cognizance and summoned the accused persons, therefore, the said court is better equipped to deal with the present bail application.

I have considered the submissions of Ld. Counsel for both the parties and apprised them that even if, Ld. regular court has already taken cognizance of the offences and summoned the accused persons, still, all the material facts and relevant judicial record may not ordinarily be in the memory of the Ld. Presiding Officer of the regular court due to long time gap and lapse of memory and he may also be required to peruse the relevant judicial record for disposal of the present application in the similar way as this court requires. Yet, Ld. Counsel for both the parties have insisted that Ld. regular court is in a better position to decide and dispose of the present application for the aforementioned reasons and if the Ld. regular court also faces the same difficulties as this court is facing, then they may make further submissions to assist the Ld. regular court for final disposal of the present bail application or any other appropriate orders may be passed by the Ld. regular court.

In view of the aforesaid circumstances, it seems that matter may be put up before Ld. regular court; since the judicial record is not before this court and this court has not seen the same ever. The Enforcement Directorate has shown genuine difficulties to file documents collected during further investigation in e-form, share them through internet for security reasons and for reasons of hampering of further investigation. The period of Lockdown has been extended by the Govt. and the Hon'ble High Court of Delhi till 03.05.2020, therefore, Enforcement Directorate cannot be permitted

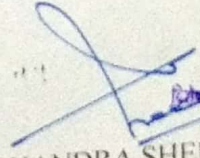


to send the voluminous relied upon judicial record in pendrive and documents collected during further investigation in physical form through special messenger. In these circumstances, it seems appropriate that present bail application of accused Deepak Talwar may be put before the Ld. District & Sessions Judge-cum-Special Judge (PC Act) Ms. Sujata Kohli, Rouse Avenue District Courts, New Delhi for passing appropriate orders. At the request of both the parties, application be listed before said Ld. Court on 20.04.2020 at 02:00 p.m. Ld. Counsel for both the parties may ~~be~~<sup>v</sup> appear before her through Video Conferencing through CISCO WEBEX Meetings on the aforesaid date and time as per prevailing procedure.

A copy of this order is being sent through Whats App to Sh. Vivek, P. A to Ld. District & Sessions Judge-cum-Special Judge (PC Act), Rouse Avenue District Courts, New Delhi with a direction to him to upload the same on official website of Delhi District Courts at the earliest and send one copy of the same to Ld. District & Sessions Judge-cum-Special Judge (PC Act), Rouse Avenue District Courts, New Delhi. A signed hard copy of the order shall be sent to the concerned court as soon as work is resumed from the Court premises of Rouse Avenue District Courts, New Delhi.



Dated 17.04.2020

  
श्री चंद्र शेखर  
Sh. Chandra Shekhar  
Special Judge PC Act (CBI-19)  
Room No 404, 4th Floor  
Rouse Avenue Court Complex  
New Delhi

CHANDRA SHEKHAR  
Special judge, CBI-19  
Rouse Avenue District Courts, New Delhi