

IN THE COURT OF SH VIMAL KUMAR YADAV, SPECIAL JUDGE (PC ACT), CBI-01,  
ROUSE AVENUE DISTRICT COURT, NEW DELHI

CBI Vs Sumer Chand Garg etc.

Case No.88/2019

05.10.2020

**Present :** Ms. Bindu, Ld. PP for CBI.

Sh. Hitender Kapur, Ld. Counsel for accused Ashok Jain, Lal Mani, R.S.Sandhu, Ashok Chikara and Ram Chander Arora.

Sh. Manjeet Godara, Ld. Counsel for accused Atul Vashisth.

Accused Vijay Kumar is present.

None has joined on behalf of Accused Mohan Lal.

The matter has been taken up through video conferencing using CISCO WEBEX hosted by Sh. Sudhir Kumar, Reader of this court, also attended by Sh. Vivek Juyal, P.A.

The matter is fixed for defence evidence and defence witness namely Hira Lal Bharti has also been served. However, Court would be holding physical hearing on **12-10-2020**, So DW Sh. Hira Lal Bharti has already been informed by the reader of the court as well as Pairvi Officer of the CBI, with the prior consent of the Defence Counsel, so accordingly bound down for the next physical hearing. List the matter for **DE** on **12-10-2020** accordingly before the court in physical hearing.

Counsel for accused Mohan Lal be also informed accordingly.

A copy of this order be also sent to the Computer Branch for uploading on the official website.

  
(Vimal Kumar Yadav)

Special Judge (PC Act), CBI-01,  
Rouse Avenue District Court, New Delhi

05.10.2020

CBI Vs Jaypal Sharma etc.

Case No.394/2019

05.10.2020

**Present :** Ms. Bindu, Ld. PP for CBI.

Sh. Hitender Kapur, Ld. Counsel for accused Vikram.

Sh. S.P.M.Tripathi, Ld. Counsel for accused Jagdish and proxy on behalf of Sh. Punit

Gauba Ld. Counsel for accused Jaipal Sharma.

The matter has been taken up through video conferencing using CISCO WEBEX hosted by Sh. Sudhir Kumar, Reader of this court, also attended by Sh. Vivek Juyal, P.A.

This is a contested matter at the stage of prosecution evidence. In view of the circular No. Power/Gaz./RADC/202/E-7784-7871 dated 30.07.2020 issued by Ld. District & Sessions Judge-cum-Special Judge (PC Act) (CBI), RADC, New Delhi, pursuant to Order No. 26/DHC/2020 dated 30.07.2020 of Hon'ble High Court of Delhi, New Delhi, evidence cannot be recorded. Accordingly, case is adjourned for PE on **27.10.2020**.

A copy of this order be also sent to the Computer Branch for uploading on the official website.

  
(Vimal Kumar Yadav)

Special Judge (PC Act), CBI-01,

Rouse Avenue District Court, New Delhi

05.10.2020

**RC-DAI-2020-A-0026**

**CBI Vs. Mahesh Sharma & Ors.**

**U/ss. 120-B, IPC read with Section**

**7(A) and 8 of the PC Act**

विमल कुमार यादव  
VIMAL KUMAR YADAV  
विशेष न्यायाधीश (सी.बी.आई)-01  
Special Judge (CBI)-01  
भ्रष्टाचार निवारण अधिनियम  
Prevention of Corruption Act of (PC Act)  
कमरा नं. 601, राऊस एवेन्यू न्यायालय  
Rouse Avenue Court  
डी.डी.यू. मार्ग, नई दिल्ली  
D.D.U. Marg, New Delhi

**05.10.2020**

**Present: None.**

This is the second bail application filed on behalf of the applicant/accused Mahesh Sharma. The first bail application of the applicant/accused was dismissed vide order dated 10.09.2020.

While seeking bail for the applicant/accused Mahesh Sharma, it is submitted by his Counsel that the earlier bail application filed on behalf of the applicant/accused was dismissed primarily on two counts, first there was apprehension of arrest of other persons and secondly the investigation was at its nascent stage. Now, both the conditions/circumstances are not in existence as no fresh arrest took place and for that matter there is no possibility of any arrest now in view of what has been stated by the IO that one of the suspect who could have been arrested, has been examined but not arrested indicating thereby that arrest is highly unlikely. The investigation in the present case is complete as all the material witnesses have been examined by the CBI. Apart from that, section 7A or 8 of the PC Act are not attracted as the applicant/accused is neither a Public Servant nor has influenced any public servant for any illegal gratification.

The applicant/accused is in judicial custody from 31/08/2020 and has spend more than a month in custody. Additionally, it is submitted by Counsel for the applicant/accused that the applicant/accused is a respectable retired officer from custom department and has nothing to do with the alleged offence. It is further submitted that in the entire tenure of the applicant/accused, not a single allegation of any kind was leveled against him, however, now when he has retired from his



service with an unblemished record, and merely working as a Consultant in the custom matters, the allegations have been leveled upon him which are baseless and have no concern with the applicant/accused. As regards the recovered amount of Rs.1,00,000/-, it is submitted that the same was with the applicant/accused as an consultancy fees and there is no evidence with the CBI that the same was the alleged bribe amount whatsoever. Besides this, it is submitted that the CBI has taken police custody remand of the applicant/accused initially and now he is in judicial custody, which clearly shows that interrogation of the CBI qua the applicant/accused, and for that matter qua all accused persons is complete, therefore, keeping in view the old age of the applicant/accused and his wife, he may be considered for bail.

Public Prosecutor for CBI vehemently opposed the bail application while asserting that all the three accused are part of the conspiracy as the consignment of co-accused Manoj Dang was got cleared by co-accused Sunil Kumar through the present applicant/accused Mahesh Sharma, which is clear from the audio recordings. The allegations stand substantiated by the recovery of Rs.1,00,000/- from applicant/accused Mahesh Sharma who had used his connections in his erstwhile department to secure the release of the imported articles. It is submitted that all the accused persons being closely associated with the custom department and present applicant/accused Mahesh Sharma, who has recently retired within last year, still have influence/connections, apart from the knowledge of the working of the customs department therefore, and even otherwise all of them are in a position and situation to tamper with the evidence and influence the investigation. As such, it is submitted that the existence of conspiracy involving the applicant being a consultant in the customs department is clear and as charge sheet has yet not been filed, thus the applicant does not deserve to be released on bail. He, however, clarified on being asked that no more arrests are to be made in this case.

I have considered the submissions made by the rival sides and looked into the relevant record. The telephonic conversations, audio recordings of which



are there amongst accused persons etc and recovery of money thereupon from applicant/accused Mahesh Sharma are two substantial aspects of the allegations. Both are secure in the hands of CBI and no possibility of tampering is there, nor the witnesses, who are all officials, can be influenced by the applicant, nor any such apprehension has been expressed by CBI. Further, custody is not going to serve any purpose and as a person is considered innocent till proven guilty has been and is the principle followed by the Courts and that carve out a case for applicant.

Having taken in to account the fact that substantial investigation is complete, accused has spend more than a month in custody and not required for investigation, being under the police custody too, therefore taking in to account the entire gamut of facts and circumstances, especially that no apprehension of absconding or influencing the investigation, whatever little remains is there, thus the applicant/accused Mahesh Sharma is admitted to bail on furnishing personal bond and surety bond in the sum of Rs.1,00,000/- to the satisfaction of the Court concerned.

Application stands disposed of accordingly. All necessary compliances qua transmission of order etc. be made.



(Vimal Kumar Yadav)

Special Judge (PC Act), CBI-01

विशेष न्यायाधीश (पी.सी.एक्ट) (सी.बी.आई)-01  
RACC/Delhi/05-10-2020  
Special Judge (PC Act) (CBI)-01

राऊस एवेन्यू न्यायालय  
Rouse Avenue Court  
नई दिल्ली  
New Delhi

**RC-DAI-2020-A-0026**

**CBI Vs. Mahesh Sharma & Ors.**

**U/ss. 120-B, IPC read with Section**

**7(A) and 8 of the PC Act**

**05.10.2020**

**Present: None.**

This is the second bail application filed on behalf of the applicant/accused Sunil Kumar. The first bail application of the applicant/accused was dismissed vide order dated 10.09.2020.

While seeking bail for the applicant/accused Sunil Kumar, it is submitted by his Counsel that the earlier bail application filed on behalf of the applicant/accused was dismissed primarily on two counts, first there was apprehension of arrest of some other persons and secondly the investigation was at its nascent stage. Now, both the conditions/circumstances are not in existence as no fresh arrest took place and for that matter there is no possibility of any arrest now in view of what has been stated by the IO that one of the suspect who could have been arrested, has been examined but not arrested indicating thereby that areest is highly unlikely. The investigation in the present case is complete as all the material witnesses have been examined by the CBI. Apart from that, section 7A or 8 of the PC Act are not attracted as the applicant/accused is neither a Public Servant nor has influenced any public servant for any illegal gratification. The adjudication order dated 28/08/2020 of custom authorities is a detailed order which is a quasi judicial order, which is crystal clear through which a kind of clean chit was given to the applicant/accused while imposing a penalty of Rs.61,000/- which was duly paid. Thus, under any circumstance, the allegations do not attract section 7A or 8 of the PC Act.

विमल कुमार यादव  
VIMAL KUMAR YADAV  
विशेष न्यायाधीश (सी.बी.आई)-01  
Special Judge (CBI)-01  
दुराचार निवारण अधिनियम  
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कमरा नं. 601, राऊस एवेन्यू न्यायालय  
Rouse Avenue Court  
डी.डी.यू. मार्ग, नई दिल्ली  
D.D.U. Marg, New Delhi



The applicant/accused is in judicial custody from 31/08/2020 and has spend more than a month in custody and during this period he was in CBI/police custody too. Additionally, it is submitted by Counsel for the applicant/accused that the applicant/accused has a 80 years old mother and one female child of 19 years of age, therefore he apart from being the only bread earner of his family has the responsibility to look after them too. Besides he himself is suffering from different ailments. With these submissions, it is sought that the further custody of the applicant/accused is not going to serve any purpose, therefore may be considered for bail.

Public Prosecutor for CBI vehemently opposed the bail application while asserting that the adjudication order dated 28/08/2020 in itself is under cloud and for that matter the same was passed by the custom authorities, therefore CBI has nothing to do with the observations made in that order. All the three accused are part of the conspiracy as the consignment of co-accused Manoj Dang was got cleared by applicant/accused through co-accused Mahesh Sharma, which is clear from the audio recordings. The allegations stand substantiated by the recovery of Rsa.1,00,000/- from Mahesh Sharma who had used his connections in his erstwhile department to secure the release of the imported articles. As such, it is submitted that the existence of conspiracy involving the applicant as CHA and a go-between the importer, Mahesh Sharma and customs department is clear and as charge sheet has yet not been filed, thus the applicant does not deserve to be released on bail. He, however, clarified on being asked that no more arrests are to be made in this case.

I have considered the submissions made by the rival sides and looked into the relevant record. The telephonic converstions, audio recordings of which are there amongst accused persons etc and recovery of money thereupon from Mahesh Sharma are two substantial aspects of the allegations. Both are secure in the hands of CBI and no possibility of tampering is there, nor the witnesses, who are all officials, can be influenced by the applicant, nor any such apprehension has been expressed by CBI. Further, custody is not going to serve any purpose and as a



person is considered innocent till proven guilty has been and is the principle followed by the Courts and that carve out a case for applicant.

Having taken in to account the fact that substantial investigation is complete, accused has spend more than a month in custody and not required for investigation being under the police custody too, therefore taking into account the entire gamut of facts and circumstances, especially that no apprehension of absconding or influencing the investigation, whatever little remains is there, thus the applicant/accused Sunil Kumar is admitted to bail on furnishing personal bond and surety bond in the sum of Rs.1,00,000/- to the satisfaction of the Court concerned.

Application stands disposed of accordingly. All necessary compliances qua transmission of order etc. be made.



(Vimal/Kumar Yadav)

Special Judge (PC Act), CBI-01

विशेष न्यायाधीश प्रत्यक्ष निवारण अधिनियम (सी.बी.आई)-01  
RACC/Delhi/05.10.2020

राजस एवेन्यू न्यायालय  
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नई दिल्ली  
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