

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

FIR No. RC-DAI-2020-A-0018

PS: CBI, ACB, New Delhi

U/s: 7 of PC Act, 1988

(as amended in 2018)

Surender Singh Chahal v. CBI

26.06.2020

Presence:

(Through CISCO WEBEX Meetings)

Ld. Sr. Defence Counsel Sh. Ramesh Gupta along with Ld. Counsel Sh. Vijay S. Bishnoi for the accused Surender Singh Chahal.

Ld. Sr. Public Prosecutor Sh. Brijesh Kumar Singh with Ld. Public Prosecutor Sh. Amit Kumar for the CBI.

IO/Inspector Shyam Rai, CBI, ACB, New Delhi.

ORDER ON BAIL APPLICATION U/S 437/439 CR.P.C.
MOVED ON BEHALF OF ACCUSED SURENDER
SINGH CHAHAL

An application seeking bail, on behalf of accused Surender Singh Chahal was moved on 25.06.2020 by his Counsel Sh. Vijay S. Bishnoi in the court of Ld. District & Sessions Judge-cum-Special Judge (PC Act) Ms. Sujata Kohli, Rouse Avenue District Courts, New Delhi, who marked the said application to this court for hearing and disposal of the same.

On 25.06.2020 I had partly heard the submissions of Ld. Sr. Defence Counsel Sh. Ramesh Gupta on the aforesaid bail application through Video Conferencing by 'CISCO WEBEX platform' App due to spreading of Corona Virus (COVID-2019),

special measures taken by the Govt. to prevent it by ordering a nationwide lockdown till 30.06.2020 and instructions in this regard issued by Ld. District Judge to work from home maintaining social distancing.

The Video Conferencing was facilitated by Computer Branch of Rouse Avenue District Courts Complex, New Delhi.

Ld. Public Prosecutor for CBI and the IO had sought time for filing reply to the aforesaid application therefore, at their request the application was adjourned for today at 12:00 noon for further hearing.

Today IO has filed reply in e-form to the aforesaid application, one copy of the same was supplied to Ld. Defence Counsel as per directions given to him vide order dated 25.06.2020.

I have again heard the submissions of Ld. Sr. Defence Counsel for the accused and Ld. Sr. Public Prosecutor and Ld. Public Prosecutor for the CBI.

In brief, the material facts are that on 16.06.2020 a written complaint was made by one Sh. Sunil Kumar Vats S/o Sh. Suresh Chand R/o Khasra No. 932, Rithala, Delhi-110085 addressed to Superintendent of Police, CBI, ACB, New Delhi stating that about six-seven months back, he had purchased a plot of hundred square yards in Khasra no. 78-12 H.No. 131, Vijay Vihar, Delhi-110085, thereafter, he had started constructing a boundary wall of the said plot but, at that time, some persons had arrived there and raised objections claiming the said plot therefore, he had made a call to Police Control Room, on which the said persons had left his aforesaid plot. He had also made a written complaint in this respect at Police Station Vijay Vihar; the accused Surender Singh Chahal, as then SHO of PS Vijay Vihar, he had asked him to continue construction of the boundary wall and he would look after the matter but, after some times, the said SHO started harassing him



[Handwritten signature]

and on 10.06.2020, he called him in the PS Vijay Vihar through Ct. Samay Singh and demanded an amount of Rs. five lakh for permitting him to construct the boundary wall on the aforesaid plot and also extended threats that if the said amount was not paid, he would implicate him in a false case and put him behind the bars.

On receiving the said complaint, as per instructions of senior officer of CBI, SI Pradeep and Inspector N. C. Naval, CBI, ACB, New Delhi had made verification of the facts mentioned in the said complaint on 16.06.2020 itself in the presence of an independent witness Sh. Jaideep Mathur, ASO, DDA, PB-III, DDA Office, Vikas Sadan, INA Market, New Delhi. The 'verification' corroborated the facts stated in the aforesaid complaint and it was revealed that an amount of Rs. Five lakh was demanded by the accused Surender Singh Chahal who was the then SHO of Police Station Vijay Vihar. The complainant during the verification proceedings had asked the accused Surender Singh Chahal to reduce the aforesaid bribe amount to Rs. Four lakh and told the said accused that he will pay the amount of Rs. two lakh on the next day and will pay the remaining amount within a period of ten days but, the accused had asked the complainant to pay Rs. two lakh on the next day and pay Rs. six lakh in total within ten days. The accused had asked the complainant to pay the said amount on 17.06.2020 to Ct. Badri of the same police station.

'After the' conclusion of verification proceedings, aforesaid case was registered on 17.06.2020 and a trap was laid to arrest the accused persons involved in the commission of the offence. On 17.06.2020 at about 07:30 p.m., the complainant contacted the said Ct. Badri who was present in a salon who asked the complainant to wait outside; the complainant was waiting in his Baleno car outside the said salon. After some time, Ct. Badri came near the said Baleno car and accepted the yellow colour envelope containing the bribe amount of Rs. two lakh from the complainant and went

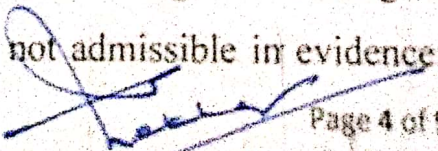


[Handwritten signature]

towards a police motoreycle which was kept in start mode by one Ct. Jitender. The public witnesses and CBI officers had seen the transaction of taking of bribe amount by Ct. Badri from the complainant thereafter, the CBI officers had apprehended both the aforesaid Ct. Badri and Ct. Jitender. Ct. Badri was asked to make a phone call to accused Surender Singh Chahal on his mobile phone but, he did not agree for the same however, he made a call on landline phone of PS Vijay Vihar to ascertain whereabouts of the accused Surender Singh Chahal; thereafter, accused Surender Singh Chahal was apprehended by the CBI officers while he was heading at Kanjhawala Road, Budh Vihar, New Delhi towards his house. He was brought to PS Vijay Vihar at about 08:50 p.m. thereafter, all the aforesaid three accused persons were formerly arrested and further investigation was carried out by the CBI officers and the same is still continuing.

Ld. Sr. Defence Counsel has submitted that CBI Officer after arrest of accused Surender Singh Chahal, had not asked for his police custody remand as no recovery was to be effected from his possession; the house and office of the accused have already been searched; alleged conversation itself stated to have taken place between the accused and the complainant only for a very small period and not more than fifteen seconds; the same is manipulated; none of the witnesses claimed that accused at the relevant time was present in PS Vijay Vihar; the verification report itself reflects that independent witnesses had not seen or heard anything regarding conversation allegedly took place between the complainant and the accused; therefore it cannot be said that the conversation was in between complainant and the accused only; no recovery has been effected from the accused; the verification report itself is doubtful; the proceedings of CBI after registration of FIR regarding recording statement of accused are illegal and hit by section 162 of Cr.P.C.; sending of complainant with bribe money is aiding and abetting of commission of offence and this fact is not admissible in evidence;




Page 4 of 9

the accused is not required for further investigation; the voice samples of the accused persons have already been taken; the statements of prosecution witnesses u/s 161 Cr.P.C. have already been recorded; the independent witnesses are Govt. Officials; the forensic report will be available only after a considerable lapse of time; the IO had violated section 41-A of Cr.P.C. as there was no ground to arrest the accused Surender Singh Chahal but, the IO had arrested him; IO should have given the accused a notice as per law to join the investigation; IO did not produce case diary at the time of taking judicial remand of the accused; therefore, he was having ample opportunities to manipulate the evidences against the accused; the IO did not explain to the Ld. MM at the time of asking him for judicial custody as to why the accused was arrested and hence, IO has violated the direction of the Hon'ble Supreme Court in case law titled as *Arnesh Kumar v. State of Bihar and Another (2014) 3 SCC (Crl.) 449*. The accused is a permanent resident of Delhi; he has deep roots in the society; he is ready to join the investigation and also ready to comply all the reasonable conditions imposed upon him if the bail is granted to the accused; there is no apprehension that the accused will evade the trial hence, he may be granted regular bail.

Ld. Sr. Public Prosecutor and Ld. Public Prosecutor for CBI have opposed the submissions of Ld. Sr. Defence Counsel humbly submitting that the case is at the initial stage; a number of important documents are yet to be collected; the independent witness, the complainant and other witnesses are yet to be fully examined; there is a reasonable apprehension that accused who was SHO may tamper with the evidence; he may influence the witnesses and hamper ongoing investigation and he may also flee from justice; there are sufficient material evidences against the accused; he is prime accused as on his instructions only the co-accused Ct. Badri had accepted the amount of bribery from the complainant; the conversation between the accused and the complainant has already



been recorded by the CBI; the accused has clearly made demand of bribe amount which has already been recovered from Ct. Badri; the statements of the accused recorded during investigation are not inadmissible in evidence in view of section 162 of Cr.P.C as the same are evidence and admissible under section 8 and 10 of Indian Evidence Act, the IO is always ready to show the case diary to the court, but the same cannot be supplied through e-mail as the same could be seen by other persons also; the grounds of arrest have been mentioned in case diary and in Arrest-cum-Personal Search Memo; the offence alleged against the accused is serious in nature and punishable up to seven years and conviction of accused is possible even if recovery was directly not effected from him. The accused was harassing the complainant continuously for a period of about six-seven months. A request is made that the aforesaid bail application moved on behalf of accused Surender Singh Chahal may be dismissed.

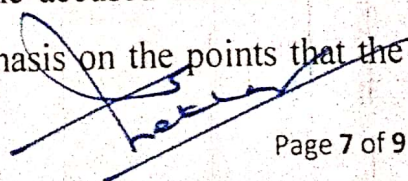
Ld. Sr. Defence Counsel in rebuttal has submitted that the prosecution has not specified which witnesses are still to be examined; if the accused was continuously harassing the complainant for about six-seven months, there is a long unexplained delay on behalf of complainant to report the matter to concerned authorities; even if the accused harassed the accused on 10.06.2020 there is delay in reporting the matter as complaint was only made on 16.06.2020. The IO is required to state the reasons of arrest to the Ld. MM concerned at the time of taking remand and he is also under duty to file a check list as per the judgement of Arnesh Kumar. The accused is under suspension and is not able to influence any witness and is ready to abide by conditions imposed by the court in this regard.

I have considered the submissions of Ld. Counsel of respective parties, perused the judicial record and the case law cited by Ld. Sr. Defence Counsel. It is an established law that granting of



bail is a discretionary relief depending on and varying on the facts and circumstances of each case. But, there are some well established factors which are required to be considered while granting bail, the same in brief are: considering nature of offence or gravity of offence, nature of evidence, antecedents of accused, circumstances peculiar to the accused, apprehension of tampering of evidence, possibility of influencing the witnesses, securing of presence of the accused and larger interest of society and impact of the offence on the society. Therefore these factors are required to be considered at the time of disposing of the application of accused in the present case. Ld. Sr. Defence Counsel has stressed upon that there is no evidence that the alleged conversation which was recorded by the complainant during verification proceedings took place only in between accused Surender Singh Chahal and the complainant only as there is no evidence that the accused was present at the relevant time in the PS Vijay Vihar. The verification report itself shows that the public witnesses were not present when the alleged conversation took place between the accused and the complainant during verification proceedings. The accused has already been examined by the Investigating Officer, his statements and voice samples have already been taken; the statements of the witnesses who are Govt. servants, have also been recorded and the complete evidence has already been collected by the IO; there is no other material witness, who is to be examined during further investigation; the IO if need be, will only record supplementary statement of the complainant or/and the witnesses; the forensic report on the voice samples or documents collected during investigation shall be available only after a considerable lapse of time. There is no purpose to keep the accused in judicial custody awaiting that report; the recovery was not effected from the accused though his personal search was taken, house and office were thoroughly searched by the Investigating Officer. Ld. Sr. Public Prosecutor for the accused and Ld. Public Prosecutor for CBI have laid much emphasis on the points that the





witnesses are still to be examined and the accused who was SHO of PS Vijay Vihar is an influential person, he may influence the witnesses or temper the evidence or hamper further investigation or flee from justice.

After considering the aforesaid submissions of Ld. Counsel for respective parties and keeping in view the totality of the facts and circumstances of the case, I am of the considered opinion that material investigation has already been completed, there is no point to keep the accused in judicial custody because prosecution witnesses are still to be examined in the present case during further investigation or there is an apprehension that accused may temper with evidence, influence the witnesses or flee from justice. The said aspects may be taken care of by granting bail to the accused subject to certain conditions imposed covering the aforesaid points. *Therefore, the accused Surender Singh Chahal is admitted on bail u/s 439 of Cr.P.C. subject to the conditions that (1) accused shall furnish his personal bond in the sum of Rs. 1,00,000/- with one surety in the like amount, (2) he shall not leave the country without permission of the court and deposit his passport with IO within a period of seven working days from his release from the jail, (3) he shall furnish his current address to the IO and report any change therein to the IO and to the court, (4) he shall furnish his active mobile phone number and e-mail address to the IO within a period of seven working days and will be available physically before the IO whenever the IO requires his physical presence for the purposes of further investigation as per law, (5) he shall not do any act or conduct, due to which a reasonable inference may be drawn that he is trying to tamper with the evidence or trying to influence, or threaten the prosecution witnesses including complainant or future witnesses or win over*



The accused may furnish his personal bond and surety bond before Ld. Concerned Duty Magistrate as per prevailing procedure.
The application of accused Surender Singh Chahal is allowed and disposed of accordingly.

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 send a copy of the same to the concerned Computer Branch for uploading the same on official website of Delhi District Courts at the earliest. The Computer Branch is also directed to supply/send a copy of the same to the concerned Superintendent Jail and one copy to the concerned Duty Magistrate at appropriate time as per procedure/directions of Ld. District & Sessions Judge and send one copy of the same immediately to the concerned parties who were present today. 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 26.06.2020



CHANDRA SHEKHAR

Special judge, CBI-19 (PC Act)

Rouse Avenue District Courts, New Delhi

श्री चन्द्र शेखर
Sh. Chandra Shekhar
विशेष न्यायाधीश, ब्रह्मचर विभाग उच्च न्यायालय, (सी.बी.आई.-19)
Special Judge PC Act (CBI)-19
कमरा नं. 404, चौथी मंजिल
Room No 404, 4th Floor
संसदीय भवन, न्यायालय परिसर
Rouse Avenue Court Complex
नई दिल्ली
New Delhi