

**IN THE COURT OF SH. AJAY KUMAR KUCHAR,
SPECIAL JUDGE (PC ACT) (CBI-09) (MPs/MLAs CASES),
ROUSE AVENUE DISTRICT COURTS, NEW DELHI.**

ECIR/HQ/19/2017

U/S 3, 4 PMLA, 2002

Deepak Talwar etc. v. Directorate of Enforcement

21.04.2020

Presence :

(Through Cisco Webex Meeting App)

Ld. Senior Counsel Sh. Hariharan with Ld. Defence Counsel Sh. Tanveer Ahmed Mir .Advocate for applicant / accused Deepak Talwar.

Ld. Special Counsel Sh. Amit Mahajan and Ld. Special Public Prosecutor Sh. Nitesh Rana with Sh. Prem Malik, Deputy Director for Enforcement Directorate and Sorabh Mehta I.O.

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

1. This application has been assigned to this court by the order of Ld. District & Sessions Judge-cum-Special Judge (PC Act) Ms. Sujata Kohli, Rouse Avenue District Courts, New Delhi dated 20.04.2020 and in terms of said order, it has been taken up for hearing today through Cisco Webex Meeting App facilitated by the Computer



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21.4.2020

Branch attached to the office of the Ld. Ld. District & Sessions Judge-cum-Special Judge (PC Act), Rouse Avenue District Courts, New Delhi due to spreading of Corona Virus (COVID-19) and the special measures taken by the Govt. to prevent it by ordering a nationwide lockdown upto 03/05/2020 and instructions issued by Ld. District Judge to work from home in order to maintain social distance. Today hearing through VC has taken place with the consent of LD.Counselors of both the parties.

2. I have partly heard the submissions of learned Senior Advocate Sh. Hariharan and learned Counsel Tanveer Ahmed Mir for the applicant / accused and learned Special Counsel Sh. Amit Mahajan for the Enforcement Directorate on the aforesaid second bail application of the applicant / accused Deepak Talwar as per order and direction of Ms. Sujata Kohli, Ld. District & Sessions Judge-cum-Special Judge (PC Act), Rouse Avenue District Courts, New Delhi, passed on 20.04.2020.

3. This application was earlier assigned for disposal as per law to Sh. Chandra Shekhar, Ld. Special Judge, CBI-19 (PC Act), Rouse Avenue District Courts, New Delhi on 07.04.2020 and the application was partly heard on 07.04.2020, 09.04.2020 and 17.04.2020. On 09.04.2020 the LD.Special Judge (PC Act), had given liberty to the Enforcement Directorate to file all the relevant judicial record / case

law in court in e-form through e-mail of Sh. Vivek, Personal Assistant



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to the Ld. District & Sessions Judge-cum-Special Judge (PC Act). The liberty was also given to the learned Counsel for the applicant / accused to file any other document / case law in e-form through e-mail of Sh. Vivek.

4. On 17.04.2020, when the matter was taken up for hearing. Sh. Amit Mahajan, learned Special Public Prosecutor for Enforcement Directorate submitted that he got scanned the relied upon documents and was willing to file the same in the e-form but was unable to do so due to security reasons. It was submitted that documents were not only voluminous but also sensitive in nature and sharing of these documents may lead to leakage and may prejudice the rights of other parties and also hamper further investigation of the case. It was also contended that the Enforcement Directorate has collected some documents from foreign countries which could not be scanned due to logistical and security reasons. Thereafter, both the learned Counsels for the parties made submission before the Ld. Special Judge (PC Act) that the regular court of the undersigned, having taken cognizance in this matter, will be in a better position to deal with the application. Accordingly, the application was sent to the Ld. District & Sessions Judge-cum-Special Judge (PC Act), Rouse Avenue District Courts, who vide order dated 20.04.2020 directed as under;



*“matter be listed before the regular court i.e.
A.K.Kuhar, Ld. Special Judge PC Act, CBI, Rouse Avenue*

[Signature]
21.4.2020

District Court for 21.04.2020 at 2.00PM through Video Conference using CISCO WEBEX app.in terms of Modified Protocol No. 12/RADC dated 19.04.2020 issued by the Office of undersigned.”

5. I have received the copy of the bail application and reply of the Enforcement Directorate and some miscellaneous orders passed in this case along with some annexures. The Enforcement Directorate has not filed any document so far.

6. Sh. Amit Mahajan,Ld. Special counsel for the Enforcement Directorate submits that there is a voluminous record which has been digitized which can be sent in Pen Drive or through some special messenger to the residence of the undersigned. However, such a request has already been declined in the previous order. Sh. Amit Mahajan,Ld. Special Counsel for Enforcement Directorate has been asked that whatever documents i.e. the relevant extract of the complaint, extract of statements of witnesses under Section 50 of Prevention of Money Laundering Act and extract of documents etc., on which he intends to rely for argument, may be sent to the PS of the Ld. District & Sessions Judge-cum-Special Judge (PC Act), RADC, who will transfer those documents via e-mail to the undersigned.

7. Sh. Amit Mahajan, learned Special Public Prosecutor for Enforcement Directorate has also submitted that further investigation is going on and some documents have been collected which could not



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be scanned for logistical and security reasons and though the Enforcement Directorate would like the court to see those documents while considering the bail application but will not share them with accused till they are filed in the court.

8. Sh. Harisharan, learned Senior Advocate for the applicant / accused has submitted that all the documents relevant, have been supplied. He submitted that the material collected during subsequent investigation cannot be considered by the court. He also submitted that the applicant / accused has been granted interim bail by the Ld. Chief Metropolitan Magistrate, RADC in the case filed by CBI in the predicate offence. He further submits that the co-accused of the applicant / accused have been granted interim bail by this court. He further submitted that relevant extract of statements recorded under section 50 of PML Act is already given in the complaint filed in court and the copy of the complaint has been filed along with other documents in the court in E form through e-mail. However, it is noticed that copy of Complaint has not been received in e mail. Sh. Tanveer Ahmed Mir submits that though he had sent it to Mr. Vivek P.A. to Ld. DJ but he will send it again.

9. Sh. Amit Mahajan, learned Special Public Prosecutor has submitted that in fact there is no urgency in the matter, and the court has to decide about the urgency in the case and the court has to decide whether the application for regular bail, in such a case, can be heard



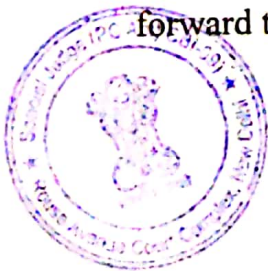
Amit Mahajan
21.4.2020

through VC where the record is voluminous.

10. Sh. Tanveer Ahmed Mir, learned Counsel for the applicant / accused has submitted that in case IO has to show some investigation file to the court, then hearing of the case may be taken in the court premises by maintaining social distancing and taking all precautions necessary in the present scenario on account of spread of COVID-19.

11. Due to closure of the functioning of courts till 03.05.2020 all the urgent matters in the Rouse Avenue District Court for hearing, are being taken up for hearing only through Video Conferencing in terms of the directions of the Ld. District & Sessions Judge-cum-Special Judge (PC Act), Rouse Avenue District Courts, New Delhi as per Protocol issued by the Ld. District Judge ,RADC.

12. While hearing a bail application, the court has to give equal opportunity to both the parties and it would not be in the fitness of the things to hear the bail application without giving full opportunity to the Enforcement Directorate to oppose the application. Therefore, I deem it appropriate to give the Enforcement Directorate an opportunity to file the necessary and relevant documents/case laws on which it wants to place reliance, in e-form through e-mail of Sh. Vivek, PA of the Ld. District & Sessions Judge-cum-Special Judge (PC Act), Rouse Avenue District Courts, New Delhi, who shall forward the same via e-mail to the undersigned.



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13. The application is now listed for hearing through Video Conferencing on **24.04.2020** at **12 noon**. Time is fixed with the consent of both the parties.

14. A copy of this order is being sent through WhatsApp to Sh. Vivek P.A. to Ld. District & Sessions Judge-cum-Special Judge (PC Act), Rouse Avenue District Courts, New Delhi and Sh. Surender Mandal , Incharge Computer Branch with a direction to upload the same on the official website of Delhi District Courts at the earliest and also for providing the copy of the order to all concerned. 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.



Ajay Kumar Kuhar
21.4.2020

(AJAY KUMAR KUCHAR)
Special Judge (PC Act) (CBI-09)
(MPs/MLAs Cases) RADC,
New Delhi/21.04.2020 (a)
AJAY KUMAR KUCHAR
Special Judge (PC Act) (CBI-09)
(MPs/MLAs Cases)
Court No. 502, Fifth Floor
Rouse Avenue District Court
New Delhi