

HIGH COURT OF DELHI**Bench: Acting Chief Justice Manmohan and Justice Manmeet Pritam Singh Arora****Date of Decision: 22 April 2024**

W.P.(CRL) 1203/2024 & C.M.Nos.11660-11662/2024

WE, THE PEOPLE OF INDIA ...PETITIONER**VERSUS****UNION OF INDIA & ORS. ...RESPONDENTS****Subject:**

Public interest litigation filed seeking extraordinary interim bail for the Chief Minister of Delhi, currently in judicial custody due to multiple criminal cases pending against him.

Headnotes:

Petitioner's Claim of Veto Power – Claims by petitioner to represent "We, the People of India" and purported 'veto power' to secure release of the Chief Minister (Respondent No.5) from custody in all criminal cases – Court dismisses claims as unfounded and fantastical – Locus standi and public interest litigation principles discussed – No substance in petitioner's claim leading to dismissal of the petition [Paras 1-3, 8-9, 11].

Judicial Custody and Equality Before Law – Petition not maintainable since judicial orders for custody were not challenged – Court emphasizes the constitutional principle of equality and the rule of law: "Be you ever so high, the law is above you" – Importance of maintaining public confidence in the legal system underscored [Paras 6-7].

Misplaced Representation and Lack of Authority – Petitioner, a law student, with no legal authority or power of attorney to act on behalf of or represent the Chief Minister – The concept of personal bond and assurance about the Chief Minister's conduct found to be inappropriate and dismissed [Paras 10, 12].

Dismissal with Costs – The petition, considered an abuse of the judicial process, dismissed with costs of Rs.75,000 imposed on the petitioner, to be deposited with the AIMS Poor Fund – This cost is a punitive measure against frivolous litigations [Para 14].

Decision: Writ petition dismissed with costs – No grounds for extraordinary interim bail – Principles of public interest litigation and locus standi affirmed – Costs imposed to deter similar frivolous litigations in the future [Para 14].

Referred Cases: None.

Representing Advocates:

For the Petitioner: Mr. Karan Pal Singh

For the Respondents: Mr. Ripu Daman Bhardwaj, SPP with Mr. Abhinav Bhardwaj and Mr. K. Manaswini, Advocates for R- 3/CBI.

Mr. Santosh Kumar Tripathi, standing counsel with Mr. Shadan Farsat, ASC, Mr. Rishikesh Kumar, Mr. Irshand, Mr. Tushar Sanna, and Mr. Mohit Bhardwaj, Advocates for R- 4/GNCTD.

Mr. Rahul Mehra, Sr. Advocate with Mr. Talha Abdul Rahman, Mr. Hrishikesh Kumar, Mr. Sreekar Aechuri, Chaitanya Gosain, Mr. Adnan Bhat, and Mr. Sahat Karan Singh, Advocates for R-5.

JUDGMENT

MANMOHAN, ACJ : (ORAL)

1. Present public interest petition has been filed allegedly on behalf of the 'People of India' seeking grant of extraordinary interim bail to Respondent No.5 i.e. the Chief Minister of the NCT of Delhi, in all criminal cases which have been registered by the respondent nos. 2 to 4 and are pending inquiry and/or trial. The petitioner seeks extraordinary interim bail against his personal bond, whereby the Petitioner has undertaken that respondent no.5 will not influence the witnesses involved, or try to destroy the evidence or try to flee from justice.

2. The petitioner in the writ petition claims to have '*veto power*', which is sufficient to give any concession to any accused, if arrested and/or confined in jail under judicial custody. It is also averred that the inquiry and/or trial of the criminal case(s) registered against the respondent no. 5 by the respondent nos. 2 to 3 will take a long time to conclude and no useful purpose will be served by keeping him behind the bars till conclusion of such inquiry/investigation, and thus prays for grant of extraordinary interim bail to respondent no.5, till the completion of respondent no. 5's tenure and/or till the completion of criminal trials, whichever is earlier.

3. Learned counsel for the petitioner states that on account of arrest of the respondent no. 5 and his subsequent

confinement to judicial custody, working of the Government of NCT of Delhi and its Cabinet has come to a standstill and the administration is working like a 'headless' organization. He enlists several responsibilities of respondent no. 5 in his capacity as the Chief Minister of the GNCTD including ability to take quick decisions and pass orders and directions for the effective management, control and administration of NCT of Delhi; inspection of various Government schools/ hospitals/ offices/ colonies of the State etc. on a daily basis; calling and/or holding regular meetings of the Cabinet of Ministers; meeting citizens of the State on daily basis; overseeing transfer and posting of Group 'A' officers in Delhi, etc. which have been hampered on account of his arrest.

4. Learned senior counsel for respondent no.5, who appears on advance notice, states that the present petition is an '*ambush petition*'. He states that respondent no.5 is taking steps to enforce and protect his legal rights in accordance with law. He also points out that similar petitions have already been dismissed by this Court including the last one i.e. W.P.(C) No.5135/2024 with costs of Rs.50,000/-

5. However, learned counsel for the petitioner presses his writ petition.

6. This Court is of the view that the present writ petition is not maintainable as the respondent no. 5 is in judicial custody in pursuance to judicial orders, which have not been challenged in the present writ petition.

7. Further this Court is of the view that it is important to bear in mind the concept of equality enshrined in the Constitution of India and the basic tenant of rule of law: "*Be you ever so high, the law is above you*". This is imperative to retain public confidence in the Constitution of India.

8. It is also relevant to reproduce paragraphs 2, 3, 4, 6, 11 and 20 of the present writ petition:-

"2.That, the Petitioner has also used his name as "We, the People of India" in the title of the present matter, just because he is also representing all the remaining fellow citizens / residents / voters of the NCT of Delhi, who have the same thoughts and opinions in the matter involved, as the Petitioner have, but cannot approach and/or to come, due to the reasons

mentioned in coming paragraphs, this Hon'ble High Court seeking the very same reliefs, as the Petitioner is seeking for.

3. **That, the Petitioner is the main power source of "the Constitution of India" being the by-birth citizen of India.** The Government of India (Respondent No. 1) and it's all departments including Directorate of Enforcement (Respondent No.2) and Central Bureau of Investigation (Respondent No.3) and Delhi Police (Respondent No.4) are working for and on behalf of the Petitioner and his fellow citizens, not only this, all of them are also running only on the taxes paid by the Petitioner and his fellow citizens.

4. **That, due to the noted above reasons and being the main power source of "the Constitution of India", the Petitioner has the "Veto Power", which is sufficient to give any concession to any accused, if arrested and/or confined in Jail under Judicial Custody. Moreover, the present matter is only in relations of the sitting Chief Minister of NCT of Delhi, which was duly elected by way of giving their votes to the political party working under his chairmanship by the Petitioner and his fellow citizens of the NCT of Delhi with full majority, to rule the NCT of Delhi, for and on behalf of the Petitioner and his fellow citizens of NCT of Delhi.**

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6. **That, the Petitioner is a by- birth citizen and registered voter of NCT of Delhi having Voter Identity Card No.AZK4377602 and is studying in the 4th year of B. A. LL. B.**

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(ii) **That, being the main power source of "Constitution of India" and considering the noted above facts, circumstances and various other related factors, the Petitioner has decided, by using his "Veto Power", to release the Respondent No.5 i.e. the Chief Minister of the NCT of Delhi in all the criminal case (s) registered by Respondents hta.2 to 4, which are still pending against him for inquiry and/or trial during pendency of the same, till the completion of his tenure and/or till the completion of the trial of same, whichever come to end earlier, on extra ordinary interim bail, and by way of the present petition , the Petitioner is informing about the same to this Hon'ble High Court .**

(jj) **That, the Petitioner is also ready to give his personal bond as security to this Hon' ble High Court and/or concerned Hon'ble Trial Court in the**

event of grant of extra ordinary interim bail to the Respondent No.5 i.e. the Chief Minister of the NCT of Delhi.

- (i) ***(kk) That, the Petitioner is giving his personal guarantee that the Respondent No.5 i.e. the Chief Minister of the NCT of Delhi shall not try to influence the witnesses, moreover, all of them are under the control and in direct touch of the Respondent No.2 to 4 ; and***
- (ii) ***the Respondent No.5 i.e. the Chief Minister of the NCT of Delhi shall not try to destroy the evidence, moreover, the same in position of the Respondent No. 2 to 4; and***
- (iii) ***the Respondent No.5 i.e. the Chief Minister of the NCT of Delhi shall not try to flee from justice.***

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20. That, the Petitioner also wants to inform this Hon'ble High Court that his younger brother is studying in the Government School (GBSSS-1207016

{Roop Nagar No.2}) in 9th standard by the Govt, of NCT of Delhi. At the same time, the ***Petitioner also wants to intimate this Hon'ble High Court that his father has also been elected as the President by the members of the Nyay Satta Party, which is a registered Political Party of India. The undersigned and/or Petitioner and/or and/or his father and/or the Nyay Satta Party have no tie-up and/or any relation with the Respondent No.5 and/or ruling Party of NCT of Delhi i.e. Aam Aadmi Party in any manner, whatsoever. In reality, both of them are competitor of each other being working in the same field. Moreover, the father of the Petitioner and/or Nyay Satta Party is not going to participate in the coming elections due to the reason that both are in its starting age of politics.***

(emphasis supplied)

9. This Court is of the view that the petitioner's claim to be custodian and representative of the people of India, is nothing but a fanciful claim which is devoid of any basis.

10. This Court finds it odd that the petitioner boasts to have been entrusted with 'veto power', which according to him, is sufficient to give any concession to any accused upon being arrested. It is even more strange that the petitioner has offered to extend a personal bond in favour of respondent no.5 and has undertaken that the respondent no.5 will not try to influence the witnesses involved, or try to destroy the evidence or try to flee from justice. The petitioner holds no power of attorney on behalf of respondent no.5 to either make such statements/undertakings on his behalf or extend such personal bonds.

11. The glaring lack of *locus standi* is augmented by the fact that the petitioner is a stranger to the criminal proceedings

initiated against respondent no. 5. It is settled principle of law that an aggrieved person must approach the Court. Undoubtedly, the rule of *locus standi* is relaxed in case of public interest litigation, but that is to be done only to ensure that the poor or socially and economically backward or persons with disability are not denied their rights. This observation is without prejudice to the contention that in criminal matters, the concept of public interest litigation is not available.

12. In the present case, the respondent no. 5 who is currently in judicial custody, has the means and the wherewithal to approach the Court and file appropriate proceedings, which in fact he has so done before this Court as well as the Apex Court. Consequently, this Court is of the view that no relaxation of the principle of *locus standi* is called for in the present case.

13. With respect to the submission of the petitioner that the incarceration of respondent no. 5 has led to difficulties in functioning of the Government, the same has already been opined upon by this Court vide order dated 28th March, 2024 in W.P.(C) 4578/2024. At the cost of reiteration, the relevant paragraph in the said judgment is reproduced below:

“4. Having heard the counsel for the Petitioner and having perused the paper-book, this Court is of the view that there is no scope for judicial interference in the present matter. This Court in writ jurisdiction cannot remove or dismiss Respondent No. 4 from the post of Chief Minister of the Government of NCT of Delhi or declare breakdown of constitutional machinery in the State. It is for the other organs of the State to examine the said aspect in accordance with law. This Court clarifies that it has not commented upon the merits of the allegations.”

14. With the aforesaid observations, present writ petition along with the applications is dismissed with costs of Rs.75,000/- to be deposited with AIMS Poor Fund Account No.10874588424 with SBI, Ansari Nagar, New Delhi (IFSC Code:SBIN0001536) within four weeks. The petitioner is directed to file with the Registry a proof of deposit of the cost within one week of deposit.

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