

**HIGH COURT OF DELHI****Bench: Hon'ble Ms. Justice Swarana Kanta Sharma****Date of Decision: 7<sup>th</sup> June 2024**

CRIMINAL JURISDICTION

CRL.M.C. 3192/2024 &amp; CRL.M.A. 12324/2024

**ARUN RAMCHANDRAN PILLAI ...PETITIONER****VERSUS****CENTRAL BUREAU OF INVESTIGATION ...RESPONDENT****Legislation:**

Sections 120B of the Indian Penal Code, 1860 (IPC)

Sections 7, 7A, and 8 of the Prevention of Corruption Act, 1988

Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.)

Section 207 of the Cr.P.C.

**Subject:** Petition under Section 482 Cr.P.C. seeking setting aside of the impugned order dated 22.03.2024 by the Special Judge (PC Act), CBI-09, Rouse Avenue District Court, New Delhi, in case no. CBI/56/2022. The matter concerns alleged criminal conspiracy and corruption in the formulation of Delhi's Excise Policy 2021-22.

**Headnotes:**

Criminal Law – Petition under Section 482 Cr.P.C. – Challenge to impugned order rejecting deferment of hearing on charge – Accusations of criminal conspiracy and corruption in Delhi Excise Policy 2021-22 – Petitioner contends investigation incomplete and seeks delay until supplementary chargesheet against co-accused is filed – Learned Trial Court dismissed application, stating arguments on charge can be halted if further incriminating evidence is filed – Held, maintaining the impugned order with instructions for timely supply of supplementary chargesheet and documents – Ensuring fair trial and speedy proceedings – Petition dismissed. [Paras 1-25]

Fair Trial – Rights of Accused – Section 207 Cr.P.C. – Emphasizes the importance of providing accused with all material collected by the prosecution – Ensures preparation of defense and arguments on charge – Held, accused entitled to additional documents filed against co-accused – Arguments on charge may be revisited based on new evidence – Directions for prompt provision and scrutiny of supplementary chargesheets. [Paras 17-20]

Decision – Impugned order upheld – Directions for timely supply of supplementary chargesheet and documents to accused – Emphasis on fair trial and adherence to principles of natural justice – Petition disposed of with instructions for expeditious proceedings. [Paras 22-25]

### **Referred Cases:**

- Vinubhai Haribhai Malaviya v. State of Gujarat (2019) 17 SCC 1
- Luckose Zachariadh v. Joseph Joseph 2022 SCC OnLine SC 241
- Raman Bhuraria v. Directorate of Enforcement 2023 SCC OnLine Del 657
- Jitender Narottam Das Mehrotra and Ors. V. State and Ors., 2003 (3) JCC (NI) 250
- Maya Rani Manna v. State of West Bengal and Ors. 2022 SCC Online 1290
- Sunita Devi v. The State of Bihar 2024 INSC 448
- Manish Sisodia v. CBI 2023 SCC OnLine SC 1393

Representing Advocates:

Mr. Nitesh Rana, Mr. Anuj Tiwari, Mr. Kaushal Kait, Mr. Deepak Nagar, Mr. Nikhil Kohli, Ms. Soumya Kumar & Ms. Monika for the petitioner.

Mr. D.P. Singh, SPP with Mr. Manu Mishra, Ms. Shreya Dutt, Mr. Imaan Khera, Advocates with ASP Rajiv Kumar for the respondent

### **JUDGMENT**

#### **SWARANA KANTA SHARMA, J.**

1. By way of instant petition filed under Section 482 of the Code of Criminal Procedure, 1973 (*'Cr.P.C.'*), the petitioner seeks setting aside of the impugned order dated 22.03.2024 passed by the learned Special Judge (PC Act), CBI-09, Rouse Avenue District Court, New Delhi (*'learned Trial Court'*) in case no. CBI/56/2022 titled as „*CBI vs. Kuldeep Singh & Ors*“.
2. Brief facts of the present case are that an FIR bearing No. RC0032022A0053 dated 17.08.2022 had been registered by the Central Bureau of Investigation (*'CBI'*) alleging that during the formulation of Delhi"s Excise Policy of 2021-22, the accused persons had entered into a criminal conspiracy, thereby intentionally creating or leaving loopholes in the policy to be exploited later on. Substantial kickbacks were allegedly paid in advance to the public servants involved, in exchange for undue pecuniary benefits to the conspirators in the liquor trade. It is alleged that kickbacks totalling around Rs. 90-100 crores were paid in advance to co-accused persons by certain

- individuals in the South Indian liquor business (*'South Group'*). These kickbacks were found to have been returned back to them subsequently out of the profit margins of wholesale distributors and also through the credit notes issued by them to the retail zone licensees related to the South liquor lobby. Furthermore, the criminal conspiracy allegedly resulted in the formation of a cartel among three components of the policy: liquor manufacturers, wholesalers, and retailers.
3. After conducting investigation, CBI had filed charge-sheet before the learned Trial Court on 25.11.2022 against 07 accused persons including the present petitioner i.e., Sh. Arun Ramchandran Pillai (accused no. 5) for offences punishable under Sections 120B of the Indian Penal Code, 1860 (*'IPC'*) and Sections 7, 7A and 8 of the Prevention of Corruption Act, 1988 („PC Act“), cognizance of which was taken on 15.12.2022 by the learned Trial Court. First supplementary charge sheet was filed by CBI on 25.04.2023 before the learned Trial Court. Thereafter, second supplementary charge sheet had also been filed on 08.07.2023 before the learned Trial Court whereby the CBI had arrayed more accused persons.
  4. During the course of aforesaid proceedings, the petitioner herein had moved an application dated 26.02.2024, raising objections to commencement of arguments on charge before the learned Trial Court. The said application was dismissed *vide* impugned order dated 22.03.2024, aggrieved by which, the petitioner is before this Court.
  5. Learned counsel appearing on behalf of the petitioner fervently argues that the investigation in the present case by the CBI has not been concluded even after a lapse of more than 15 months as the RC in the present case had been registered on 17.08.2022. It is accordingly submitted that despite directions by the Hon<sup>ble</sup> Supreme Court *vide* judgment dated 30.10.2023 in case reported as ***Manish Sisodia v. CBI 2023 SCC OnLine SC 1393*** whereby the prosecuting agencies had been directed to complete the trial in the present case within 6-8 months from passing of the said judgment, the trial has not been completed within the stipulated time period, and rather, the trial has not even commenced.
  6. Learned counsel for the petitioner argues that the impugned order passed by the learned Trial Court is arbitrary, unfair, unjust, illegal, unsustainable and violative of the fundamental and legal rights of the petitioner. In support of the said argument, learned counsel for the petitioner submits that since the present case involves the offence of criminal conspiracy under Section 120-B of the IPC and if any further statement of any witness is recorded under

Section 161 of Cr. P.C. by the prosecution and/or any document is collected during further investigation, the prosecution would, in all probability, rely upon the same, much to the detriment of the present petitioner, which would prejudice the petitioner herein, and thus, it would be appropriate that the prosecution is directed to first conclude their investigation and only thereafter, the matter may be fixed for arguments on charge by the learned Trial Court. It is further argued that investigation is still ongoing on several aspects of alleged criminal conspiracy, ect., and it is possible that CBI may add additional accused persons after further investigation. It is also argued that the present accused is alleged to have been linked to Smt. K. Kavitha who has been arrested by the CBI. Thus, any statement recorded by the CBI in relation to Smt. K. Kavitha under Section 161/164 of the Cr.P.C. must be given to the petitioner herein which the petitioner can rely upon during arguments on charge *qua* him. It is submitted that since chargesheet against Smt. K. Kavitha has not been filed yet, the petitioner cannot get documents related to the chargesheet which would be filed against Smt. K. Kavitha. It is thus submitted that considering the above aspects, the learned Trial Court be directed to defer the arguments on charge till further investigation is completed and documents relied upon by the CBI *qua* Smt. K Kavitha are supplied to the petitioner as per Section 207 of Cr.P.C.

7. It is, thus, prayed that the impugned order be set aside. Reliance has also been placed upon following decisions: ***Vinubhai Haribhai Malaviya v. State of Gujarat*** (2019) 17 SCC 1, ***Luckose Zachariadh v. Joseph Joseph*** 2022 SCC OnLine SC 241, ***Raman Bhuraria v. Directorate of Enforcement*** 2023 SCC OnLine Del 657, ***Jitender narottam Das Mehrotra and Ors. v. State and Ors.***, 2003 (3) JCC (NI) 250 and ***Maya Rani Manna v. State of West Bengal and Ors.*** 2022 SCC Online 1290.
8. The learned Special Public Prosecutor ('SPP') for the CBI opposes the present petition and argues that this petition is nothing but a delaying tactic on the part of the petitioner herein, which is in direct contravention of the judgment dated 30.10.2023 passed by the Hon"ble Supreme Court in ***Manish Sisodia*** (*supra*). It is submitted that the investigation in respect of all 16 charge-sheeted accused persons including the present petitioner is complete and further investigation regarding the role of remaining accused persons/ suspects is under progress as per Section 173(8) of Cr.P.C. It is also submitted that there are sufficient materials in the form of relied-upon documents, articles and statements of witnesses which have been filed along with the chargesheet before the learned Trial Court and,

thus, the said material is only required to frame charges against the accused persons including the petitioner in accordance with the law.

9. Learned SPP for the CBI, on instructions from the Investigating Officer („IO“), however, submits that supplementary charge-sheet *qua* other accused persons will be filed on or before 10.06.2024 before the learned Trial Court. It is also submitted that the present case involves a larger conspiracy in the formulation and implementation of the Delhi Excise Policy, 2021-2022, and considering the complexity of the case, the CBI is conducting further investigation to trace the money trail involved in the present case. It is further submitted that the impugned order passed by the learned Trial Court is in accordance with law and has been passed after due application of mind by the learned Trial Court. Thus, it is prayed that the present petition be dismissed.
10. This Court has heard arguments addressed on behalf of both the parties and has perused the material placed on record.
11. The issue, that arises for adjudication, by this Court is as under:

*Whether the learned Trial court should be directed to defer hearing arguments on charge till the investigation qua Smt. K. Kavitha is complete and the chargesheet against her is filled and a copy is provided to the petitioner?*

12. As far as the main contention raised by the learned counsel for the petitioner that since the present case involves the alleged commission of offence of criminal conspiracy under Section 120B of IPC, any statements of new witnesses or documents collected by the prosecution during further investigation would have the potential to be used against the petitioner and affecting his case is concerned, this Court was informed by the learned SPP for CBI that the supplementary chargesheet in this case *qua* the role of co-accused Smt. K. Kavitha, who was arrested by CBI on 11.04.2024, will be filed by 10.06.2024.
13. It is significant to note that framing of charge is a crucial stage in a criminal trial. A charge framed by a court of law gives an accused, a full notice and details of the offence for which he has been charged and is being put to trial. This in turn ensures that the accused is fully aware of the case set up against them, allowing him to prepare his defence accordingly. At the stage of charge, a crucial right of the accused is also to seek discharge on the basis of the

- entire material placed before the Court, as per law. However, the accused can prepare his arguments on charge or discharge, only when he is aware about the entire incriminating material collected against him by the prosecuting agency.
14. For framing a charge of criminal conspiracy under Section 120B of IPC, read with offences under the Prevention of Corruption Act, the prosecution will have to present *prima facie* material showing the accused's agreement, either explicit or implied, with other co-accused to engage in activities that constitute these offences. This is so because conspiracies are often hatched in secrecy, and the roles of the accused persons may also be closely interlinked and interdependent in nature.
  15. In the case at hand, this Court has also gone through the chargesheet and supplementary chargesheets filed in this case till date by CBI. A perusal of the same reveals that one of the main allegations against the present petitioner Sh. Arun R. Pillai is that he was acting on behalf of Smt. K. Kavitha and communicating with other co-accused persons including co-accused Sh. Vijay Nair, and that he had received 65% of the profits out of total profits earned by M/s Indo Sprits. The petitioner had received this amount, allegedly as recoupment of advance kickbacks paid by the South Group at the time of formulation of the new Excise Policy, on behalf of Smt. K. Kavitha.
  16. In the present case, it thus *prima facie* appears that the allegations against the petitioner herein are part of conspiracy involving co-accused Smt. K. Kavitha. Therefore, though in the present case, the investigation with respect to the role of the petitioner is undoubtedly complete and the chargesheet *qua* him stands filed, the chargesheet *qua* co-accused Smt. K. Kavitha is yet to be filed by the CBI, and since both these accused persons were allegedly in close conspiracy with each other, it will be important for the petitioner to peruse the contents, allegations and material collected by prosecution against co-accused Smt. K. Kavitha, before he addresses arguments on charge. Needless to say, such further investigation conducted by the CBI *qua* co-accused Smt. K. Kavitha may either benefit the present petitioner or the prosecution, at the stage of charge.
  17. This Court is also of the view that Section 207 of the Cr.P.C protects an accused's right to a fair trial, and as held by Hon'ble Apex Court in case of ***Sunita Devi v. The State of Bihar 2024 INSC 448***, the idea behind compliance of Section 207 of Cr.P.C. i.e. supplying all necessary documents collected by the prosecution to an accused is to enable an accused to face the trial by thoroughly understanding the case stated against him.



18. This Court has also gone through the impugned order dated 22.03.2024 passed by the learned Trial Court and the relevant portion of the same reads as under:

**“25. During the course of hearing on these applications, it has also been stated by IO that the ongoing further investigation may be completed within three to four months and the same is pending not because of any fault on their part, but because of the fact that some of the suspects or offenders are evading the joining of investigation. There are sixteen accused who have been chargesheeted in the case till date and conclusion of hearing on charges on behalf of prosecution as well as on behalf of these sixteen accused may take a considerable time **and a possibility cannot be ruled out that any of the other offenders or suspects is made to join investigation in the meanwhile any supplementary filed again consequent upon his arrest and on conclusion of investigation qua him. However, then the court may stop or halt the hearing on charges till the copies of such supplementary and documents filed and relied upon in support thereof are supplied to all the accused persons and the scrutinized. The accused shall get an opportunity in such a situation to address their arguments qua the above documents or evidence brought on record or witnesses added to the list of prosecution through such supplementary chargesheet. However, if any fresh evidence qua the accused who have already chargesheeted in this case is also collected by the investigating agency during the course of such further investigation and the same is required to be used even qua these accused, then as per observations made by the Hon’ble High Court in the case of Sri Desaraju Venugopal (Supra) it would be incumbent upon the respondent to inform this court and to seek its permission to further investigate the matter qua these accused, if the is felt necessary.****

26. Therefore, in view of the above this court is of considered opinion that present applications moved on behalf of the above accused persons are devoid of merits and are liable to be dismissed. The same are, accordingly, dismissed and stand disposed off with the above observations.

27. However, is made clear that nothing contained herein shall tantamount to expression of opinion merits of the case.”

(emphasis supplied)

19. This Court has given its thoughtful consideration to the order impugned before this Court. In this Court’s opinion, the learned Trial Court in all fairness has already mentioned in its order that though 16 accused persons have already been chargesheeted and hearing arguments on charge will take considerable time, in case any further supplementary chargesheet is filed *qua* any other accused person, the hearing on arguments on charge may then be halted and copies of such chargesheet and relied upon documents be supplied to all the accused persons, and the present accused will also get an opportunity to address his arguments with respect to the new material/evidence brought on record.

20. This Court is also of the opinion that keeping in view the rules of natural justice, fair trial and criminal jurisprudence, the accused will be entitled to supply of those additional documents which may be filed against the co-accused with whom he has been alleged to have conspired with and as stated above, to additionally address arguments on charge on the basis of such additional material directly involving his role in the conspiracy. Therefore, it was fair to observe that the arguments on charge be addressed as that too may take some time on the basis of material already on record and as and when any fresh incriminating material is filed by the prosecuting agency, on the basis of further investigation and by way of a supplementary chargesheet, the accused after being supplied with those copies will be additionally heard on charge on the same.
21. This Court further notes that during the course of arguments, learned SPP for CBI, on instructions from the IO concerned, had given a categorical statement that the supplementary chargesheet in this case, *qua* co-accused Smt. K. Kavitha, will be filed on or before 10.06.2024.
22. Therefore, this Court is of the opinion that no interference at this stage is required by this Court in the impugned order as the learned Trial Court has already taken note of the grievance of the present petitioner and the said order does not suffer from any infirmity.
23. Therefore, it is now ordered that once the CBI files the said supplementary chargesheet before the learned Trial Court, on the first day of hearing itself, the I.O. will ensure that hard copies of the said chargesheet as well as the digitized copies of the same are provided to the accused persons before the learned Trial Court, to save time of pre-trial proceedings. The learned Trial Court will thereafter give short dates in this case for scrutiny of the said documents. The I.O. shall also ensure that the copies which are given to the accused persons are legible and paginated. The accused persons may go through the said copies and inform the I.O. about any deficiency in the hard copies and digitized copies within two days. There should not be any unnecessary delay in scrutiny of the documents, by the accused persons also, to ensure speedy trial. Many of the accused persons are in judicial custody and therefore, it will be in their interest also that long dates or adjournments are not asked for, for the purpose of scrutiny of documents.
24. The learned Trial Court is requested that the arguments on charge be heard immediately thereafter keeping in view the above timeline, and block dates be given to each accused for arguments on charge. The counsels who prefer to file written submissions may file it on the same day they conclude



arguments. It will now depend on the accused persons as to how much time will they take to address arguments on charge, individually or collectively, for the purpose of speedy trial. The learned Trial Court is requested to ensure short dates are given for the above purpose.

25. In above terms, the present petition along with pending applications, if any, is disposed of.
26. Copy of this judgment be forwarded to the learned Trial Court concerned for information.
27. The judgment be uploaded on the website forthwith.

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