

**IN THE COURT OF SH. AMIT KUMAR,**  
**SPECIAL JUDGE, PC ACT (CBI) - 04, ROUSE AVENUE**  
**COURTS, DELHI**

**CNR No. DLCT11-000254-2022**

**CBI No. 34/2022**

**CBI Vs. Saurav Kumar Sharma**

**29.04.2023**

**ORDER**

1) Vide this Order, I shall decide the issue of charge against the accused.

2) The brief facts necessary for deciding this issue are that the present FIR was registered against the accused on 30.06.2021, who is working as Appraiser in the office of Chief Commissioner of Customs, Chennai, Tamil Nadu on the allegations that the accused has indulged in corrupt activities and has amassed assets disproportionate (herein after referred as DA) to his known source of income. After conclusion of investigation, charge sheet was filed wherein it is stated that there are disproportionate assets to the tune of 189.56% amassed by the accused during the check period 19.11.2012 to 18.08.2020. As per charge sheet, the accused had assets worth only Rs. 8,240/- at the beginning of the check period and acquired assets during the check period of Rs. 1,53,95,460/- and the percentage of tentative DA is about 189.56% and therefore, he should be prosecuted under the relevant provisions of law.

3) On behalf of the accused, it was argued that accused was posted at Delhi only for a brief period of 35 months during the

check period. He lived at the residence of his brother at D-273, Sector 105, Noida, UP during this period and even the inventory of the articles during house search of this address has been shown in the assets of the accused for an amount of Rs. 3,51,500/- without any material to show that these assets were owned by the accused. Further, for the same assets, the expenditure has been shown as Rs. 4,04,500/- in statement D of the charge sheet and the prosecution has no explanation for this. It was also argued that accused got married on 10.11.2019 and his wife is a Manager in Union Bank of India and her income for the relevant period has not been included in the income of the accused. It was also argued that income from the salary of the accused for the check period has been shown as Rs. 50,58,883/- in Statement C whereas for calculating the non-verifiable expenditure made by the accused, it has been calculated at  $\frac{1}{4}$ <sup>th</sup> of the gross salary of Rs. 58,06,487/-. It is argued that on the one hand, prosecution has tried to reduce the income of the accused by showing a lesser amount and on the other hand, has tried to enhance his expenditure by taking gross salary in calculating the non verifiable expenditure. It was also argued that the recovery of a cash of Rs. 1,03,50,000/- has been attributed as an money of the accused whereas this amount was recovered from the house of the married maternal aunt of the accused and in no manner can be connected towards the DA of the accused. The purported call by the accused to his father was made at around 4 AM in the morning of 18.08.2020 whereas the alleged recovery of Rs.

1,03,50,000/- was made in the evening of 18.08.2020 and in no manner can be connected to the call of the accused made to his father and no case of disproportionate assets is made out against the accused and he should be discharged.

4) Ld. PP on the other hand has argued that a cash of more than Rs. 1 Crore was recovered from the residence of the maternal aunt of the accused and there is statement of the son of the said maternal aunt to the effect that amount was dropped at their residence by the father of accused in the morning of 18.08.2020 and was later on recovered at the instance of father of accused and belongs to the accused as on that day itself, the accused called his father and asked him to clear everything and not to call him. This clearly shows that the amount was removed from the residence by the father of the accused at the instance of the accused and belongs to the accused only. It was further argued that the salary of the wife has not been included in the income of the accused as she had written to the CBI in response to the notice that she did not contribute any money to the family after her marriage nor she had any financial transaction with the accused. For the inventory of assets prepared at the residence of the second floor of the brother of accused is concerned, it was argued that accused lived there during his stay at Delhi and all the assets lying there belong to him. The investigation agency had not included the assets available on the ground, first and third floor of that property and has only included the assets at the second floor where the accused was residing.

- 5) I have heard the submissions and have perused the record.
- 6) As far as the recovery of cash of Rs. 1,03,50,000/- is concerned, the case of the prosecution at this stage is to be believed since a phone call was made in the morning of 18.08.2020 by accused to his father saying clear everything from the residence and on that day itself, there is material on record to show that a bag was delivered by the father of the accused at the residence of the maternal aunt of the accused, which was later on recovered at the instance of father of the accused. The argument of the Ld. Defence counsel that this money does not belong to accused is his defence, which requires trial.
- 7) Coming to the salary of the wife, accused got married on 10.11.2019 and till June, 2020, lived at Delhi whereas his wife lived at Chennai. He shifted to Chennai in July, 2020 and as per charge sheet, even then lived separately and not with his wife due to covid. Wife has given in writing that she had no financial transaction with accused. In these circumstances, her salary cannot be included in the income of the accused.
- 8) The next argument of defence was that the salary of the accused for the purposes of calculating his income during the check period has been shown to Rs. 50,58,883/- whereas for calculating the non-verifiable expenditure, the gross salary has been taken and the prosecution should take gross salary even in the income of the accused. I do not find any force in this submission as the salary of the accused, which he takes home, has to be taken as his income whereas for calculating non

verifiable expenditure, his gross salary minus tax has to be considered as the other components of the salary like GPF, PPF or payment of any loan etc. are to be included in his expenditures only. The prosecution is right in taking the net salary in the income and 1/4th of the gross salary minus tax as non verifiable expenditure.

9) Coming to the last argument regarding the inventory of the assets lying at the second floor of the residence of the brother of the accused where accused lived for 35 months during his posting at Delhi, there is no material on record to show that these assets belong to accused. There is not even a statement U/s 161 CrPC recorded nor there are any bills or documents to show that these assets belong to the accused. For this reason, the expenditure of Rs. 4,04,500/- shown at serial No. 2 of the statement D under the head expenditure during the check period cannot be included in the expenses of the accused nor this amount wrongly shown as Rs. 3,51,500/- at serial No. 6 of statement B of the assets at the end of check period can be considered in the assets acquired by the accused.

10) However, even if this amount of Rs. 4,04,500/- is deducted from the amount of assets amassed by the accused during the check period, as per charge sheet there are assets with the accused, which are disproportionate to his income and sufficient to frame charges against him. Deduction of this amount from list of alleged assets amassed by accused during check period does not make any case for discharge.

11) In view of the above discussion, there is prima facie sufficient material on record to show that accused amassed disproportionate assets during the check period and there is sufficient material to frame charges against him for the offence punishable U/s 13(2) read with 13(1)(b) of the Prevention of Corruption Act as amended w.e.f. 26.07.2018.

**ANNOUNCED IN THE OPEN  
COURT TODAY i.e. on 29.04.2023**

**(AMIT KUMAR)  
SPECIAL JUDGE, PC ACT,  
CBI-04, ROUSE AVENUE COURTS,  
NEW DELHI**