

**IN THE COURT OF SH. RAKESH KUMAR-III,
SPECIAL JUDGE (PC ACT) (CBI-02),
ROUSE AVENUE DISTRICT COURT, NEW DELHI**

CC no. 31/2022

RC09(A)/2018/CBI/AC-1/ND

FIR No.RC AC1 2018 A0009 dated 22.05.2018

Under Sections 120 B r/w 201, 420 IPC and Section 66D of IT Act 2000 and 13 (2) r/w 13(1)(d) PC Act, 1988

CNR No.DLCT11-000266-2022

CBI Vs. Sachin Chauhan & Ors.

19.09.2023

This is an application U/s 439 Cr. P. C. seeking grant of bail moved on behalf of applicant/accused no. 5 Dipu Kumar.

Present: Sh. V.K. Pathak, Ld. Counsel for CBI.

Accused/applicant Dipu Kumar in person with Sh. Rahul Saraswat, Ld counsel for applicant/accused

- :: O R D E R :: -

1. Vide this order, I shall dispose off the application U/s 439 Cr. P. C. seeking grant of bail moved on behalf of applicant/accused no. 5 Dipu Kumar.

2. It is stated in the application that applicant is innocent and he has been implicated in the present case. It is further stated that investigation in this case has been completed and charge sheet has been filed without the arrest of the applicant/accused and there can be no arrest at the instance of the Court.

Ld counsel for applicant has relied upon the judgment of Hon'ble Supreme Court in '**Satender Kumar Antil Vs. CBI 2022 SCC OnLine SC 825**' & '**Siddharth v. State of U.P, (2022) 1 SCC 676**'. Ld. Counsel for the applicant/accused has also placed reliance on various orders passed by other similar courts, whereby bail was

granted to the accused persons who were charge-sheeted without arrest.

3. Reply has been filed on behalf of CBI whereby the present bail application has been strongly opposed stating that allegations against the applicant are serious in nature and socio-economic offences constitutes a class apart and need to be visited with different approach in the matter of bail.

4. It is further contended that there exists every apprehension that in case the applicant/accused is admitted to bail, he would not only try to influence the witnesses but would also try to tamper with the prosecution evidence, which shall frustrate the legal proceedings. It is also submitted that if admitted to bail, the applicant/accused may flee and avoid trial.

5. I have heard Sh. Rahul Saraswat, Ld. Counsel(s) for the applicant/accused no. 5 and Sh. V.K. Pathak, Ld. Senior PP for CBI and have perused the record carefully.

6. Accused Dipu Kumar has been charge-sheeted in this case without arrest. It is admitted position of CBI that accused Dipu Kumar has joined the investigation several times and it is also admitted position that applicant appeared before this court upon being summoned vide order dt. 04.08.2023.

7. It is argued by Ld. Counsel for the applicant that when the accused is charge-sheeted without arrest, there can be no arrest at the instance of the court and the said law is also applicable even in cases pertaining to special Acts like NDPS, PMLA etc. To substantiate his arguments, Ld. counsel for the applicant has relied upon the judgment titled '**Satender Kumar Antil Vs. CBI 2022 SCC OnLine SC 825**' and the relevant findings of this judgment

are as under :-

“65. We may clarify on one aspect which is on the interpretation of Section 170 of the Code. Our discussion made for the other offences would apply to these cases also. To clarify this position, we may hold that if an accused is already under incarceration, then the same would continue, and therefore, it is needless to say that the provisions of the Special Act would get applied thereafter. It is only in a case where the accused is either not arrested consciously by the prosecution or arrested and enlarged on bail, there is no need for further arrest at the instance of the court. Similarly, we would also add that the existence of a pari materia or a similar provision like Section 167(2) of the Code available under the Special Act would have the same effect entitling the accused for default bail. Even here the court will have to consider the satisfaction under Section 440 of the Code.

8. Therefore, in view of the above mentioned discussed points, the law laid down by the Hon'ble Supreme Court of India in Satender Kumar Antil's case (supra) is required to be followed.

9. The law laid down by the Hon'ble Supreme Court in Satender Kumar Antil v. Central Bureau of Investigation & another (supra) is applicable in the case in hand.

10. Further, it is not the case of prosecution that the applicant had not cooperated in the investigation or that he did not

join the investigation as and when called. It is also submitted on behalf of CBI that the possibility of tampering with the evidence and influencing the witnesses cannot be ruled out seeing the influential position of the applicant, however, the applicant has not been arrested even during investigation so there is no merit in this contention and conditions can be imposed in that regard.

11. In view of the aforesaid detailed observations and the facts and circumstances of the case, having relied upon the law laid down by the Hon'ble Supreme Court in *Satender Kumar Antil v. Central Bureau of Investigation & another* (supra), the fact that the applicant was not arrested by CBI/prosecution during investigation and the charge sheet was filed without arresting the applicant and that nothing has been brought on record by CBI to show that the applicant had not co-operated during investigation or had tried to influence any witnesses or tamper with the evidence and that the investigation qua him is complete, the bail application stands allowed.

12. Applicant/accused Dipu Kumar is admitted to regular bail on furnishing personal bond in the sum of Rs.50,000/- (Fifty Thousands) with one surety of the like amount with further conditions as under:

i. The applicant/accused shall not leave the country without prior permission of the Court;

ii. The applicant/accused shall surrender his passport before this court, if not surrendered yet, within 07 days;

iii. The applicant/accused shall co-operate and participate in the investigation as and

when directed by the Investigating Officer;

iv. The applicant/accused shall not temper with the evidence and shall not influence the witnesses;

v. The applicant/accused shall provide his contact number to the Investigating Officer and shall keep the said mobile in operational modes so that the Investigating Officer as and when required can contact him.

13. The application stands disposed off accordingly.

14. Nothing expressed hereinabove shall have any bearing on the merits of the case.

Announced in the open court on
19.09.2023.

(Rakesh Kumar-III)
Special Judge (PC Act)(CBI)-02
Rouse Avenue District Court
New Delhi/19.09.2023