

IA 01/2024
CBI Vs. Pradeep Kumar Mishra & Ors.
FIR No. RC2162021A0003
PS CBI AC-I/ND
U/s 13(2) r.w sec. 13(1)(e) PC Act, 1988

20.09.2024

Fresh application for bail U/s 439 Cr. P.C moved on behalf of applicant Pradeep Kumar Mishra has been assigned to this court by order of Ld. Principal District & Sessions Judge cum Special Judge, CBI, PC Act, RADDC, New Delhi. It be checked and registered.

Present : Shri Raj Kamal, Ld. PP for CBI.

Applicant Pradeep Kumar Mishra alongwith Ld. Counsel Ms. Surabhi Vaya.

It is stated that applicant is Deputy Commandant in the Border Security Force and is presently posted in Chattisgarh. It is further submitted that applicant joined the investigation as and when called upon to do so and he fully co-operated in the investigation and he has never been arrested in this case and present charge sheet has been filed without his arrest.

The applicant has prayed for bail on the grounds that accused/applicant is innocent, and there is no chance of applicant tampering with the prosecution evidence as the charge sheet has already been filed and investigation has been concluded. It is further stated that the evidence in the present case is documentary in nature.

Ld counsel for accused has relied on the judgment of Hon'ble Supreme Court in **Court on its own motion Vs. State (2018 SCC On Line Delhi 12306)**.

Ld. PP for CBI has strongly opposed the bail application stating that allegations against the applicant are serious in nature.

I have heard Ld. Counsel for the applicant/accused and Ld. PP for CBI and have perused the record carefully.

Accused Pradeep Kumar Mishra has been charge-sheeted in this case without arrest. It is admitted position of CBI that accused Pradeep Kumar Mishra has joined the investigation several times and it is also admitted position that applicant appeared before this court upon being summoned vide order dt. 31.07.2024.

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 her arguments, Ld. counsel for the applicant has relied upon the judgment titled **Court on its own motion Vs. State (2018 SCC On Line Delhi 12306)**.

Therefore, in view of the above mentioned discussed points, the law laid down by the Hon'ble Delhi High Court in **Court on its own motion Vs. State** case (supra) is required to be followed.

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.

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 Delhi High Court in **Court on its own motion Vs. State** (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.

13. Applicant/accused Pradeep Kumar Mishra is admitted to regular bail on furnishing personal bond in the sum of Rs.15,000/- (Fifty Thousands) with one surety of the like amount with further conditions as under:

i. The applicant/accused shall co-operate and participate in the investigation as and when directed by the Investigating Officer;

ii. The applicant/accused shall not temper with the evidence and shall not influence the witnesses and appear in court on each and every date.

The application stands disposed off accordingly.

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

(ANKIT SINGLA)
Special Judge (PC Act)(CBI)-02
Rouse Avenue District Court
New Delhi/20.09.2024