

**IN THE COURT OF SPECIAL JUDGE:  
PC ACT (CBI) - 04, ROUSE AVENUE DISTRICT COURTS,  
NEW DELHI.**

IA-01/2024

CBI No. 132/2024

RC 0032024A0035 Dated 08.09.2024

CBI Vs. Mohd. Arif & Ors. ( Applicant Mohd. Arif)

CBI/ACB/New Delhi.

U/s 61(2) of BNS 2023 r/w 7,7A & 8 of PC Act 1988 (as amended in 2018)

12.11.2024

Present : Sh. Saleem Ahmed, Sh Naveen Kumar, Ajay Pratap Singh, Sh. Rishabh Shukla and A. Narula,Ld.  
Counsel for applicant/Accused Mohd. Arif.

Sh. Hari Mohan, Ld. Sr. Public Prosecutor for CBI/  
non-applicant.

I.O/ Dy.S.P. S.K. Pandey, CBI, ACB Delhi.

This is the second application under Section 483 of Bhartiya Nagarik Suraksha Sanhita (BNSS),2023 seeking regular bail moved on 07.11.2024 on behalf of applicant/accused.

Reply to the aforesaid application is filed by the CBI. Copy supplied.

Arguments are also heard on the application.

**ORDER**

1. It is, inter alia, pleaded in the application that the accused/applicant was arrested in the present case on 08.09.2024 and remanded to police custody for two days on 09.09.2024. The policy custody remand of the accused/applicant herein was extended on 11.09.2024 for two days and thereafter he was sent

to J.C and since then (13.09.2024) he is lying in Judicial Custody.

1.1 It is further pleaded that vide order dated 22.10.2024, the earlier bail application of the accused/applicant was dismissed by this Hon'ble Court on the ground that the investigation of the case was still pending.

1.2 Ld. Counsel for the accused has taken following grounds in support of the present application:

(i) That the earlier application of the accused/applicant herein was dismissed on the ground that the investigation of the case is still underway and now the chargesheet has been filed in the present case which amounts to change in circumstances.

(ii) That no further custody of the accused is required as investigation is complete and chargesheet is already filed.

(iii) That all the incriminating evidence whether oral or documentary is already in the custody of the CBI.

(iv) That the accused being in J.C shows that he is no more required for purposes of investigation.

(v) That there is no *iota* of evidence which connects the accused/applicant herein with the alleged offence.

(vi) That other co-accused have not been arrested by the CBI during the investigation of the case. Even the accused/applicant

herein was not caught red-handed by the CBI and thus, no quid pro quo accrued and there exists no motive behind demand of bribe. The renewal of the certificate relating to the firms were already due for auto-renewal without any manual intervention.

(vii) That the case of the CBI is only based upon interception of calls only and there is no other substantive evidence to link the applicant with alleged offence.

(viii) That the accused herein has permanent residence in Delhi and deep roots in the society and therefore, he not only flight risk. The accused/applicant herein has no previous criminal record and thus, there is no apprehension of his interfering in the investigation.

(ix) That accused/applicant is aged about 57 years who is suffering from chronic diabetes, high blood pressure and gall bladder stone for which he undergoing treatment. He has an unblemished record of 31 years of service. He has fully co-operated with CBI in the investigation. Hence, prayer is made for grant of regular bail to accused/applicant herein.

1.3 In support of his pleas, Ld. Counsel for the accused/applicant has relied upon the following judgments:

**(i) State through CBI V. Amarmani Tripathi (2005) 8 SCC 21**

**(ii) Nagendra V. King-Emperor AIR 1924 Cl 476,479,480, 25  
Crl. L. J 732.**

**(iii) Court On Its Own Motion V. CBI 109 (2003) DLT 494**

**(iv) Arnesh Kuamr V. State of Bihar (2014) 8 SCC 273**

- (v) **Emperor V. Hutchison AIR 1931 All 356**
- (vi) **Niranjan Singh & Anr. V. Prabhakar Rajaram Kharote & Ors (1980) 2 SCC 559.**
- (vii) **Santosh V. State of Maharashtra (2017) 9 SCC 714**
- (viii) **Madhusadashiv Gomane V. State of Maharashtra 2016 SCC Online Bom 3447**
- (ix) **Rafique Abdul Malik V. State of Maharashtra 1996 SCC OnLine 493**
- (x) **Barun Pramanik & Ors. V. State 2017 SCC Online Cal 4767**
- (xi) **State of Maharashtra V. Nainmal Punjaji Shah (1969) 3 SCC 904**
- (xii) **Manorajana Sinh V. CBI (2017) 5 SCC 218**
- (xiii) **Sanjay Chandra V. CBI (2012) 1 SCC 40.**

2. Ld. Counsel for the applicant in support of his averments pleaded in the application, further argued that the investigation in the present case is already complete and the chargesheet is already filed. All the other accused are either enlarged on bail or have been chargesheeted without arrest. Therefore, in the said backdrop, when further custody of the accused/applicant is not warranted by the prosecution, no useful purpose would be served by keeping the accused/applicant behind the bars.

2.1 It is further argued that the present case falls under the category of offences punishable upto seven years. Therefore, in terms of the judgment of Hon'ble Supreme Court in case titled **Satender Kumar Antil V. CBI SLP No. 5191/2021 dated 11.07.2022**, the applicant herein is entitled to be enlarged on bail.

The case of the applicant is also covered by the triple tests laid down in the Hon'ble Supreme Court. In this regard, besides Satender Kumar Antil (supra) case, reliance is also placed upon case titled **Gudikanti Narasimhulu and Ors V. Public Prosecutor, High Court of Andhra Pradesh, 1978 AIR 429, Moti Ram & Ors. V. State of M.P, 1978 AIR 1594 and order of Hon'ble High Court of Delhi in case titled R. Vasudevan V. CBI New Delhi, Bail Application No. 2381/2009 dated 14.01.2010 and Yudhveer Singh Yadav V. CBI , Bail Application No. 3015/2024 dated 08.10.2024.**

2.3 It is further argued by Ld. Counsel as regards the apprehension expressed by the prosecution regarding applicant if enlarged on bail could influence the grant of sanction is without any basis. The applicant herein is already suspended by his department and has no authority or opportunity to influence the competent authority for grant of prosecution sanction.

3. Per contra, the CBI has vehemently opposed bail application. As per the reply filed by the I.O, the present case was registered on 08.09.2024 on the basis of source information against accused persons (i) Mohd. Arif (**accused/applicant herein**), Sr. Environmental Engineer, Delhi Pollution Control Committee (DPCC) (ii) Bhagwat Sharan Singh (iii) Kishlaya Sharan Singh, (iv) Raj Kumar Chugh and (v) Gopal Nath Kapooria of M/s MVM and other unknown public servants and private persons.

3.1 It is further pleaded that during the course of investigation, Mohd. Arif (accused/applicant), Sr. Engineer (DPCC) was caught red handed on 09.09.2024. It is pleaded in reply to Para-B,C, D and E of the present application, though the investigation has been completed, but sanction of prosecution of accused/applicant is yet to be obtained from the Competent Authority of his department. During the course of investigation, sufficient material has been collected showing active role of accused/applicant herein and accordingly, chargesheet against him as well as other accused persons has been filed.

3.4 It is further submitted that accused/applicant herein was caught red handed from his residence while demanding and accepting sum of Rs.91,500/-. The accused/applicant herein was not fully co-operative and did not reveal true facts of the case and hence, his judicial custody was sought by the CBI

3.5 It is further submitted that accused/applicant is Senior Officer in DPCC and at this juncture when when sanction for prosecution of the accused/applicant is being processed at DPCC, bail of the accused may adversely affect the case. Further, material witnesses are yet to depose during trial before the Court, the accused/applicant, if enlarged on bail, may influence them. The accused/applicant may tamper with the evidence and also flee away from the process of law.

3.6 Other pleas have been denied parawise by the CBI. Hence, prayer is made to dismiss the application.

4. Ld. Sr. PP for CBI further argued that the applicant herein is the main accused as well as senior officer who has been caught red-handed. It is further argued that the sanction for prosecution is still awaited and there is every likelihood that he can influence the said process if enlarged on bail.

4.1 It is further argued that accused never co-operated during investigation and did not reveal the true facts and hence, his case is not covered by the judgment of Hon'ble Supreme Court in **Satender Kumar Antil (supra) case.**

**5. Heard and considered the record.**

6. The previous bail application of the accused/applicant was dismissed on 22.10.2024. Since the dismissal of the said application, the investigation stands concluded and the chargesheet is already filed on 06.11.2024. The relevant paragraph of the previous bail order is reproduced hereunder which records the reasons due to which grant of bail to the applicant was declined:

**10. Therefore, in the light of above-said reason, it has to be observed at this stage that when the material investigation vis-a-vis the incriminating documents allegedly recovered from the house of the applicant herein is still pending and the possibility of influencing the owners/witnesses of said 16 firms cannot be ruled out keeping in view the fact that he is occupying a Senior position in DPCC and play a crucial role in approvals.**

6.1 At that point of time, the material investigation vis-a-vis the incriminating documents recovered from the house of the

applicant regarding 16 firms was still pending and the possibility of owners or employees of the said firms being influenced was the ground of dismissal of the said bail application. Now, the investigation already stands concluded. The chargesheet is though silent on said aspect of examination of the role of said 16 firms and it has to be assumed that the investigation qua said aspect is already over as only the liberty has been sought for filing the prosecution sanction which is yet to be received from the Competent Authority. Therefore, the ground as mentioned in the previous order is not going to be read against the accused/applicant at this stage.

7. As far as the apprehension expressed by the prosecution regarding applicant if enlarged on bail could influence the Competent Authority with whom the prosecution sanction is awaited also appears to be without any basis. It is apparent from the record itself that the said sanction process is already initiated and is pending with the Competent Authority. It cannot be believed that the accused has the authority to influence the said process which is pending with his Disciplinary Authority.

8. As regards the apprehension expressed by the prosecution regarding influencing the witnesses or tampering of evidence, the same also appears to be without any basis as material witnesses in the present case are either the CBI officials or official witnesses from the departments.

9. There is also no possibility of accused fleeing away from the process of law having roots in the society. The fact remains

that all the other accused are either enlarged on bail or have not even been arrested by the CBI.

10. In view of above-stated facts and circumstances of the case, no useful purpose would be served by keeping him behind the bars pending trial in matter which is going to take time. Accordingly the **accused/applicant MOHD. ARIF S/o Late Irshad Ali is admitted to regular bail** on the following conditions:

- I. The applicant/accused shall furnish a personal bond in the sum of Rs.1,00,000/- ( One Lakh) with one surety of the like amount.
- II. The applicant/accused shall not directly or indirectly try to contact or influence the witnesses or tamper with the evidence.
- III. The applicant/accused shall not leave the country without permission of the Court.
- IV. The applicant/accused shall intimate the Court about the change of address if any during the period of bail.
- V. The applicant shall co-operate with the investigation as and when required by the IO.
- VI Violation of any of the conditions shall result in cancellation of his bail.

A copy of this order be given Dasti to Ld. Counsel for the applicant/accused.

A copy of the bail order be also sent to Jail Superintendent concerned and Ld. Secretary, DLSA, Rouse Avenue District Court for intimation.

**It is clarified that nothing expressed herein shall have any bearing on merits of the case.**

(GAGANDEEP SINGH)  
Special Judge, PC Act, CBI-04  
Rouse Avenue Courts, New Delhi  
12.11.2024