

**IN THE COURT OF SANJEEV KUMAR MALHOTRA
SPECIAL JUDGE: (PC ACT): (CBI)-08:
ROUSE AVENUE DISTRICT COURT: NEW DELHI**

CNR No.DLCT11-000651-2022

IA No.307/26

CBI vs. Kapil Wadhawan & Others

CC No.61/2022

RC No.RC2242022A0001

CBI AC-VI(SIT), New Delhi

21.08.2026

ORDER

1. By way of the present order, I shall decide an application seeking permission to conduct the cross examination of prosecution witnesses through video conferencing in accordance with the Rules and Guidelines prescribed by the Hon'ble Delhi High Court and Section 530 of BNSS, as filed on behalf of applicant/accused no.3 Harshil Rajnikant Mehta.
2. Arguments have been advanced by Sh. Akhilesh Chaubey, Ld. Counsel for applicant/accused no.3 and by Sh. Anupam S. Sharma, Ld. Sr. Advocate/SPP for CBI.
3. Ld. counsel for applicant argued that Section 530 of BNSS, 2023 provides that recording of evidence in inquiries and trials may be held in electronic mode by use of audio-video electronic means. It was submitted that the counsel for applicant is based at Mumbai and he may be permitted to

conduct the cross examination of prosecution witnesses through video conferencing in accordance with applicable rules, guidelines and directions prescribed by the Hon'ble Delhi High Court. It was further submitted that a duly authorized representative/associate of Ld. Counsel for applicant shall remain physically present before the court on each date, on which the cross examination of a prosecution witness is to be conducted through video conferencing and that accused no.3 undertakes to bear and pay the requisite charges and expenses prescribed for conducting the proceedings/ evidence through video conferencing.

4. Per contra, the present application is opposed by Ld. SPP for CBI while submitting that Section 530 of BNSS does not create an automatic or unconditional entitlement in favour of an advocate to conduct every cross examination through video conferencing. It was submitted that Section 530 of BNSS and Electronic Evidence and Video Conferencing Rules, 2025 though permit examination of complainant and evidence during trials in electronic mode, however, it does not stipulates partial examination in virtual mode while the witness is physically present in the court room.

5. Ld. SPP for CBI argued that the present case involves one of the biggest bank fraud and that a large number of documents may be required to be shown to the

witnesses during his/her examination, which is not feasible through video conferencing. Ld. SPP for CBI further argued that all the facilities recommended for video conferencing as per Rule 7 including transcription softwares, document visualizer, camera and microphone in witness box as well as storage option through server or cloud and facility to preserve audio-video recording of the examined person with hash value are not available in the court room. It was submitted that the video conferencing room of RADC invariably remains occupied and in the present case, in which, day to day trial is going on and there are number of advocates who are representing 90 accused persons, it would not be convenient for the witness and prosecution to get the evidence recorded through video conferencing. Thus, it was submitted that the present application is liable to be dismissed.

6. The proceedings of the present case are being conducted through hybrid mode. All the accused persons as well as their Ld. counsels have been permitted to appear through video conferencing. Arguments in detail on the point of charge were heard through video conferencing. Thereupon, vide order dated 30.07.2026, separate charges have been framed against 90 accused persons, out of which, 09 accused persons/entities have already pleaded guilty.

7. The prosecution witnesses are appearing physically

before the Court. Till date, out of 652 witnesses, five prosecution witnesses have been examined. After considering the submission of Ld. counsel for applicant, he was permitted to cross examine those witnesses of record through video conferencing and it is observed by the court that the questions put by Ld. defence counsel were to be repeated by the court to the witnesses due to the fact that there is no camera/audio-video recording device in the witness box.

8. The following rules of Electronic Evidence and Video Conferencing Rules, 2025 are relevant to reproduce:

“5. General Principles Governing Video Conferencing and other modes of Audio-video electronic communication:

Subject to the provisions hereinafter contained, video conferencing and other modes of audio-visual electronic communication may be used at all stages of judicial proceedings and proceedings conducted by the Court, where a person who is required to be present or appear is not physically present in the court room.

(i).....

CHAPTER-IV

PROCEDURE FOR VIDEO CONFERENCING

13. Examination of persons and witnesses through video conferencing and other modes of audio-visual

electronic communication.

(1).....

(2).....

(9) Where the court is of the opinion, for reasons to be recorded in writing that, evidence of the witness cannot be effectively recorded, it may decline to examine such witness through video conferencing.

9. After considering the submissions of both the parties, and the fact that the video conferencing facility as available in the court room for recording of evidence of a witness, who is present physically, is a one way facility of video conferencing as well as the fact that there are number of advocates, who are representing different accused persons and the prosecution is relying upon voluminous record, it is not convenient for the court also to permit the Ld. defence counsel for applicant to cross examine the witness through video conferencing, when the witness is physically present before the court. In view thereof, present application stands dismissed.

**Announced in the open court
on 21st August, 2026**

**Sanjeev Kumar Malhotra
Special Judge (PC Act) (CBI)-08
RADC, New Delhi**