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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.REV.P. 598/2022 & CRL.M.A. 18510-18511/2022**

CENTRAL BUREAU OF INVESTIGATION Petitioner

Through: Mr. Nikhil Goel, SPP for CBI with
Mr. Kartik Kaushal, Advocate.

versus

GIRISH BHATIA AND ORS Respondent

Through: None for R-1.
Mr. Sunil Dalal, Sr. Advocate with
Ms. Manisha Saroha, Ms. Pratibha
Varun, Mr. Gunraj Bakshi & Mr.
Jatin Gulia, Advocates for R-2.
None for R-3 & 4.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
14.09.2022

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CRL.M.A. 18511/2022 (Ex.)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

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The petitioner, vide the present petition makes the following prayers:-

“(a) Set aside both orders dated 27.07.2022 and 28.01.2020 to the extent they pertain to the direction issued to Petitioner agency to supply letters written by CBI to MHA seeking permission for surveillance of phone numbers of accused.”

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Initial submissions have been made on behalf of the petitioner placing reliance on the observations of the Co-ordinate Bench of this Court in CRL.M.C.787/2014, a verdict dated 02.06.2016 to submit to the effect that it has been observed therein to the effect:-

“10. Special procedural advantages and protections are enjoyed by the State. One of such protections operates in the field of evidence is in the nature of a privilege regarding the production of certain documents and disclosure of certain communications, which is enumerated in Sections 123 and 124 of the Indian Evidence Act, 1872. Under the said Sections, CBI in the present case and such government agencies enjoy certain privileges from production of certain documents and disclosure of certain communications before the courts.

11. In the present case, the documents/letters/communications demanded by the respondents are unpublished official record relating to various suspects including the respondents-herein. Therefore, it would not be safe to supply such documents which would either hamper the investigation of other cases to be conducted by CBI or which are against the public interest. In the considered view of this Court, the CBI cannot be directed to supply the request letter/communication sent by it seeking approval granted by the Ministry of Home Affairs vide order dated 08.09.2010.”,

submitting to the effect that the directions in the order dated 28.01.2020 to the CBI to place on record the letters written by the CBI to the Ministry of Home Affairs to keep the phone numbers of the accused on surveillance, fall within the realm of privileged communication and the supply thereof would also result into supply of documents and information in relation to the



several other cases.

Learned counsel on behalf of the respondent no.2 is present on advance notice.

Notice of the petition and of the accompanying application i.e. CRL.M.A. 18510/2022 is directed to be issued to the respondent nos.1, 3 & 4 on taking of steps by the petitioner through all permissible modes, process being returnable for the next date of hearing.

The matter be re-notified for 13.10.2022.

ANU MALHOTRA, J

SEPTEMBER 14, 2022

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