

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

% BAIL APPL. NO. 1435/2012

+ Date of Decision: 19th October, 2012

ANAND TEWARI Appellant
! Through: Mr. Ramesh Gupta, Sr. Advocate
with Mr. Madhav, Advocate

Versus

\$ CBI ...Respondent
Through: Mr. Manoj Ohri, Spl. P.P. with
Mr. Manoj Pant, Advocate with
Inspector A.J. Bajpai

CORAM:
*** HON'BLE MR. JUSTICE P.K.BHASIN**

ORDER

P.K.BHASIN, J:

The petitioner-accused had filed this application for his release on bail in this case, in which the allegations against him were that he along with his co-accused, who already stands released on bail because of the failure of the CBI to file charge-sheet against him within the prescribed period of 90 days from the date of his arrest, were the Directors of one Company by the name of M/s. Mahua Media Pvt. Ltd. and in conspiracy with each other they had defrauded many banks of over thousand crores of rupees

by submitting forged documents while availing financial facilities from the banks.

In the bail application it had been stated by the petitioner that there was no substance in the allegations levelled against him and, therefore, he was entitled to be released on bail and also that he was suffering from liver cirrhosis because of which he had become extremely fragile and his condition had, in fact, deteriorated during his detention in jail.

However, at the time of hearing of this bail application, Mr. Ramesh Gupta, learned senior counsel for the petitioner did not urge anything on merits of the case nor pressed into service serious sickness of the petitioner. However, a submission was made that though the co-accused P.K. Tiwari had been released on bail under Section 167(2) Cr.P.C. the petitioner should also be released on bail since at the time of the hearing of the bail application of the co-accused P.K. Tiwari before the Sessions Court the CBI had submitted that charge-sheet was not likely to be filed within the statutory period of 90 days and since in the case of the petitioner that statutory period of 90 days is going to expire within a period of about 14 days and there is no chance of CBI filing charge-sheet in Court within that period. It was also submitted that the petitioner would also be released under Section 167(2) Cr.P.C. with his co-accused but that relief could not be given to him as he

was out from jail for 15 days on interim bail. Mr. Gupta placed reliance on some bail orders passed by this Court including one order in which this Court had granted bail to the accused taking into consideration the fact that there was no likelihood of the investigating agency filing charge-sheet within the statutory period which was going to expire after 13 days. That bail order is reported as ***2003(3) Crimes 401, Anurag Vardhan Vs. Central Bureau of Investigation***”.

Learned senior counsel for the petitioner had drawn my attention to the reply filed by the CBI to the bail application of co-accused P.K. Tiwari before the Sessions Court. A perusal of the reply would show that the CBI had stated therein that even though the investigation conducted clearly reflected the role played by the accused but investigation was going on to find out the involvement of bank employees who could be responsible for the disbursal of loans to the Company of the petitioner and his co-accused on the basis of forged documents.

From the CBI’s reply it becomes apparent that as far as the allegations levelled against the petitioner and his co-accused P.K. Tiwari are concerned, the CBI has already collected enough material against them. However, it is continuing its investigation to find out if any bank employees were also involved in the grant of loans to the Company of the petitioner and his co-accused

without due diligence in order to favour them. That exercise of course will take time but it cannot be said at this stage that within the remaining statutory period for completion of investigation the CBI will not file its charge-sheet against the petitioner.

In case the CBI decides not to file the charge-sheet within the statutory period against the petitioner-accused despite the fact that it is claiming that the investigation which already stands conducted is sufficient to start the prosecution of the accused only in order to find out the involvement of any public servants also in the crimes which the petitioner and his co-accused are alleged to have committed, the petitioner-accused only then would be entitled to claim the benefit under Section 167(2) Cr.P.C. In any case, before this Court the CBI counsel did not state that charge-sheet shall not be filed within the remaining prescribed period. This application is, therefore, dismissed.

P.K.BHASIN,J

October 19, 2012