

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

% *Decided on : 05th September, 2014*

+ **BAIL APPLN. 1946/2014**

LT. GEN. TEJINDER SINGH

..... Petitioner

Through: Mr.Kapil Sibal, Sr. Advocate,
Ms.Geeta Luthra, Sr. Advocate and
Mr.Dayan Krishnan, Sr. Advocate
with Mr.Pramod Kr. Dubey,
Mr.Pulkit Mishra, Mr.Rahul Tripathi,
and Ms.Megha, Advocates.

versus

CBI

..... Respondent

Through: Mr.Sanjeev Bhandari, Standing
Counsel for CBI.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

PRATIBHA RANI, J. (ORAL)

Crl.M.A.No.13617/2014 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

Bail Appln.No.1946/2014

1. The Petitioner Lt.Gen.Tejinder Singh (Retd.) has been chargesheeted in RC No.AC-1(2012)A/0014/CBI, New Delhi for committing the offence punishable under Section 12 of Prevention of Corruption Act, 1988.
2. The case RC No.AC-1(2012)A/0014/CBI, New Delhi was registered

on 19.10.2012 on the basis of complaint made by Gen.V.K.Singh (Retd.) in respect of the incident that allegedly took place in his office on 22.09.2010.

3. During investigation, the Petitioner was not arrested and while filing the chargesheet No.04 dated 15.07.2014 in RC No.AC-1(2012)A/0014/CBI, New Delhi, in column No.11(A)(xii) where date of arrest was required to be mentioned, it is shown as 'Not Arrested'.

4. After the cognizance of the offence was taken by learned Special Judge/CBI, the Petitioner was summoned by learned Trial Court. On 01.09.2014 the Petitioner appeared before the Court alongwith his counsel and filed an application under Section 437 Cr.P.C. praying for his release on bail. After hearing learned counsel for the Petitioner and learned Senior PP for the CBI, the prayer of the Petitioner for release on bail was rejected.

5. Now the Petitioner is seeking bail in the instant case on the following grounds:-

(i) The Petitioner had a distinguished career in Indian Army spread over 39½ years and he retired as Lt.General in July, 2010. During his tenure as above, he had unblemished record.

(ii) The Petitioner has been falsely implicated in this case and there is no legally admissible material against him.

(iii) The Petitioner filed a criminal complaint for defamation when a false statement was made by Gen.V.K.Singh (Retd.) against the Petitioner and instant case is a counterblast of the same.

(iv) The Petitioner has appeared before learned Trial Court on the first date and there is no chance of his fleeing from justice or influencing the witnesses or tampering with the evidence.

(v) The impugned order has been passed against the well established legal

principles laid down in catena of judgments.

(vi) The chargesheet was filed against the Petitioner by the CBI without arresting the Petitioner and the same Special Judge/CBI had been releasing the accused persons on bail in all such cases where chargesheet had been filed without arrest.

(vii) The investigation in the matter is complete, chargesheet has been filed, cognizance has been taken and the material proposed to be proved by the CBI against the Petitioner is documentary in nature and already in the custody of the Court, thus, there is no apprehension of tampering with the evidence.

(viii) The Petitioner is a senior citizen suffering from various ailments.

(ix) The statement under Section 161 Cr.P.C. of the witnesses including that of the then Defence Minister does not support the prosecution's case.

6. Reply to the bail application has been filed by the CBI wherein it is stated that RC No.AC-1(2012)A/0014/CBI, New Delhi was registered against the Petitioner as on 22.09.2010 he allegedly offered bribe of Rs.14 Crores on behalf of one Ravi Rishi to Gen.V.K.Singh (Retd.), the then Chief of Army Staff (COAS), to clear the file for procurement of Tatra Vehicles by the first week of October. It is further submitted that chargesheet in this case was filed on 15.07.2014, cognizance was taken by learned Special Judge/CBI on 28.08.2014 and Petitioner was summoned as an accused by learned Special Judge/CBI for 01.09.2014. When the Petitioner appeared on 01.09.2014, the bail application moved by the Petitioner has been dismissed by learned Special Judge/CBI giving reasons for rejection. Thus, the order dated 01.09.2014 passed by learned Special Judge/CBI is fair and in accordance with law suffering from no legal infirmities. It is also stated that

the Petitioner being high rank Officer in prestigious Indian Army offered bribe to senior most Officer of Indian Army and in the given facts when there is sufficient material against the present Petitioner, his prayer for bail has been rightly rejected by learned Special Judge/CBI. Further the Petitioner has retired from a very senior rank from Indian Army and there is possibility of influencing the key witnesses especially those who had been his colleagues. It is further submitted that the incident dated 22.09.2010 was immediately brought to the notice of *Raksha Mantri* by the then Chief of Army Staff, which fact is confirmed by the *Raksha Mantri* in his statement under Section 161 Cr.P.C. Thus, in the given circumstances, the Petitioner does not deserve to be released on bail.

7. I have heard Mr.Kapil Sibal, learned Senior Advocate for the Petitioner and Mr.Sanjeev Bhandari, learned Standing Counsel for the CBI.

8. Mr.Kapil Sibal, learned Senior Advocate appearing for the Petitioner submitted that when the Petitioner had appeared immediately on receiving the summons and chargesheet being filed against him without arrest, learned Special Judge/CBI should have enlarged the Petitioner on bail especially when in other matters where chargesheets have been filed by the CBI against accused persons involved in other cases, learned Special Judge/CBI had been passing orders to release the accused persons on bail noting the facts that :

- (i) The accused co-operated during investigation;
- (ii) Not arrested during investigation;
- (iii) Appeared at first instance on issuance of summons;
- (iv) No purpose would be served by sending them to judicial custody; and
- (v) No apprehension of their fleeing from justice.

9. Mr.Kapil Sibal, learned Senior Advocate further submitted that when learned Special judge had been releasing the accused persons on bail in all such cases where chargesheet has been filed without arresting the offenders, what were the factors distinguishing the case of the Petitioner from other cases wherein bail has been granted for the above reason when the Petitioner was also meeting all the requirements of law to seek bail in the matter. Learned Senior Advocate also referred to the decision in ***Court On Its Own Motion v. Central Bureau of Investigation 109 (2003) DLT 494*** submitting that in the said report, this Court has issued directions to the criminal Courts for guidance. Mr.Kapil Sibal, learned Senior Advocate further submitted that bail application of the present Petitioner has been dismissed by learned Special Judge/CBI, without taking into account that there was an inordinate delay in registration of FIR and even the then Defence Minister did not fully corroborate the version of the then COAS. Rather as per the statement, he was puzzled as to why the Complainant chose not to take any action in the matter and also that the then COAS did not give anything in writing to him. Learned Senior Advocate for the Petitioner submitted that in this case, as per statement of Gen.V.K.Singh (Retd.), the then COAS, the conversation between him and the Petitioner was recorded and handed over to CBI but surprisingly, chargesheet in this regard gives different version. The version given by Gen.V.K.Singh (Retd.) in his statement regarding recording of conversation between him and the Petitioner and handing over to CBI, is as under :

'The conversation with Tejinder Singh during said meeting dt.22.9.2010 was recorded by me in a Digital Voice Recorder, which was handed over to you by me earlier. However, after recording the said conversation I did not play/hear it even once. I also did not

check if the said digital voice recorder was in a working condition when I handed it to you. I will check if there is any other copy of the said conversation with me and provide you, if available.'

However, in the chargesheet, in para 16.23, it is mentioned as under :

*'16.23 That during investigation, Gen.V.K.Singh had claimed to have recorded the alleged conversation between him and Lt.Gen.(Retd.) Tejinder Singh on 22.9.2010. **However, the same was not provided by him to the investigating agency despite efforts.**'*

10. Mr.Kapil Sibal, learned Senior Advocate for the Petitioner has also contended that as per the appointment sought, the purpose of visit of the Petitioner to the COAS was courtesy visit and such type of conversation could not have been recorded by COAS and even if, it was recorded, why there are two different version on this issue i.e. (i) as per the complaint, the recorded conversation handed over to CBI, and (ii) despite best efforts, the said recorded conversation not handed over. Mr.Kipal Sibal, learned Senior Advocate submitted that the Petitioner has clean antecedents and he retired from a senior post in Indian Army. The prosecution is mainly based on documentary evidence and statement of the Complainant and other witnesses holding high position, thus the contention of CBI that Petitioner can influence the witnesses or tamper with evidence, is without any substance.

11. Mr.Sanjeev Bhandari, learned Standing Counsel for the CBI submitted that merely because in some cases, the learned Specila Judge/CBI has ordered the accused persons to be released on bail wherein chargesheets have been filed without arresting the accused persons, that itself does not confer any right to the Petitioner to be released on bail. Mr.Sanjeev

Bhandari, learned Standing Counsel for CBI further submitted that it is not mandatory for learned Special Judge/CBI to pass the bail orders in each and every case whenever the accused persons is chargesheeted without arrest. Terming the impugned order to be legal, fair and just, Mr.Sanjeev Bhandari, learned Standing Counsel for CBI submitted that the same calls for no interference for the reason that Petitioner has retired from a very senior rank from Indian Army and there is possibility of influencing the key witnesses especially his colleagues serving in Indian Army. Mr.Sanjeev Bhandari, learned Standing Counsel further submitted that statement of the Complainant Gen.V.K.Singh (Retd.) is corroborated by various facts detailed in the chargesheet. Even the then Defence Minister, in his statement under Section 161 CrPC, has expressed his view as under :-

‘

I could not follow up with Gen.V.K.Singh on this issue as he did not give anything in writing to me. However, I cannot imagine that Gen.V.K.Singh could have fabricated such a story and there would definitely be some truth to what he had told me. Further, it is for him to explain as to why he did not choose to pursue the matter further at that time.

..... ’

12. Referring to the statement of Mr.A.K.Antony, the then Defence Minister, Mr.Sanjeev Bhandari, learned Standing Counsel submitted that there is no force in the contention that statement of Gen.V.K.Singh (Retd.) has not been corroborated by other witness.

13. I have considered the rival contentions and carefully gone through the record.

14. On perusal of the chargesheet, the following facts emerge on record:

- (i) The Petitioner visited the office of the Complainant on 22.09.2010.
- (ii) As per version of the then Defence Minister about one year prior to his making statement in Parliament on this issue i.e. on 27.03.2012, Gen.V.K.Singh (Retd.) informed him about the incident.
- (iii) The then Defence Minister immediately asked COAS to take action but the COAS replied that he did not want to take any action.
- (iv) On other issues of corruption, while Gen.V.K.Singh (Retd.) had acted as per defence regulations, why despite his (*Raksha Mantri*) recommendations for strictest action, COAS chose not to take any action.
- (v) The incident came to light through the report in the newspaper 'The Hindu' dated 26.03.2012 and the letters dated 30.09.2012 and 10.04.2012 by Gen.V.K.Singh (Retd.).
- (vi) Gen.V.K.Singh, COAS retired on 30.04.2012.
- (vii) CBI registered case RC No.AC-1(2012)A/0014/CBI, New Delhi on 19.10.2012 in respect of incident dated 22.09.2010.
- (viii) (a) Chargesheet filed on 15.07.2014;
(b) Cognizance taken by learned Special Judge on 28.08.2014;
(c) Petitioner summoned as an accused for 01.09.2014.

Thus, there were just two working days in between from the date of taking the cognizance and date fixed for appearance of the accused (29th August, 2014 as Friday and 30th August, 2014 as Saturday). The prompt process serving agency got the service effected and Petitioner appeared on the date fixed i.e. on 01.09.2014.

15. While opposing bail application, the contention of learned Standing Counsel for the CBI that Petitioner has retired from a very senior position and has capacity to influence the witnesses, does not hold water for the

simple reason that during investigation of this case, which continued for about two years, CBI never complained that the Petitioner is indulged in any such activity. CBI also did not feel necessity to arrest the Petitioner and it is not the case of the CBI that at any stage of the investigation, any pressure was put on the Investigating Agency by the Petitioner by influencing his colleagues, who were questioned by the CBI during investigation of this case.

16. So far as the contention of the CBI that Petitioner, if released on bail, may influence the witnesses is concerned, that seems to be without any basis for the reason that if no influence was exercised by the Petitioner during investigation, after the chargesheet has been submitted, this fear seems to have been expressed just to oppose the bail application. At the same time, the High position which the Petitioner enjoyed as Officer in Indian Army, thus in a capacity to influence the witnesses, cannot be a ground to reject his bail for the reasons that (i) CBI never complained about any attempt being made by him to influence the witnesses, and (ii) fear, if any, of CBI can be taken care of by subjecting the Petitioner to conditions.

17. It may be noted here that such type of arguments goes in favour as well against the parties as observed by this Court in ***R. Vasudevan v. CBI 166 (2010) DLT 583*** wherein the contention made on behalf of CBI was that the Petitioner, being quite influential, is capable of influencing the witnesses and hence the bail should be denied. The Petitioner while relying on the judgment of ***Ravi Singhal vs. UOI & Anr. 1993 JCC 306*** submitted that the very fact that the petitioner is holding a very high status in the society or a high position in itself is a sure shot consideration to show that the Petitioner is not going to flee from the processes of law. While dealing with the above

contentions, the following observation was made :

'14. I am of the considered opinion that the petitioner is holding a high position, or is influential, or is resourceful works as a double edged weapon which can cut both ways. The position, the status and the influence of an accused person can no doubt be a ground for denial of bail in a case where the apprehension expressed by the investigating agency is genuine and where there are sufficient prima facie reasons to believe that he would influence the witnesses or tamper the evidence to deny the bail to him, but at the same time such a status, position can also be valid consideration to show that the accused has roots in the society and is therefore not going to run away from the processes of law. He will permit and make himself available during the course of investigation or the trial as the case may be. In the instant case the statements of witness have already been recorded. No doubt, the petitioner was holding a sensitive and a high position, but I feel that this is a case where he will not be able to influence the investigation which is almost already complete. Most of the evidence against him is in the nature of recoveries and the documentary evidence regarding the recovery of huge ill gotten money both from his residence in Delhi as well as from Chennai which he cannot tamper. Apart from this, the concern of the investigating agency regarding the tampering of evidence or influencing the witnesses, can be taken care of imposing suitable conditions on the accused, while granting bail. Further nothing precludes the investigating agency to move an application for cancellation of the bail of an accused in case it has slightest prima facie evidence to show that he is influencing or trying to influence the investigation or the witnesses. Accordingly, I feel in the instant case since the nature of evidence which has been collected by the investigating agency is in the form of huge recovery of unaccounted money in cash both from the Delhi residence and Chennai residence, apart from other circumstantial evidence, I feel that the chances of the petitioner trying to erase the evidence or influence that witness are remote and if he tries to do the same investigating agency shall be free to file the application seeking cancellation of his bail.'

18. The issue that has come up for consideration before this Court, has

already been dealt with in the case of ***Sudhir Nathani vs. Central Bureau of Investigation 2003(3) JCC 1883*** wherein the allegations against the Petitioner were that he was a conduit who passed currency of Rs. 3.25 lac on behalf of the company he was employed with to the public servant through some other person. Chargesheet was filed against him without arrest. But when he appeared in response to the summons inspite of the fact that throughout the Petitioner was neither arrest nor brought before the Court or forwarded in custody under Section 170 Cr.P.C., his bail application was dismissed and he was sent to Judicial Custody. The legality of the order dismissing his bail application was challenged before this Court by filing CrI.M.(M) No.2848/2003 and the Court has discussed various decisions of the Apex Court on the subject and laid down the following principles :

'13. Now comes the question whether Learned Special Judge was justified in rejecting the bail application of the petitioner or not.

14. Supreme Court has laid down the guidelines for grant or refusal of bail under the provisions of Section 437 Cr.P.C in plethora of cases. Some of the significant cases need to be referred in brief. First of such cases is Gurcharan Singh and others v. State AIR 1978 SC 179. Guidelines provided by Supreme Court are as under :-

" Section 437 Cr.P.C provides as to when bail may be taken in case of non-bailable offences. Sub-sec (1) of S. 437 Cr.P.C makes a dichotomy in dealing with non-bailable offences. The first category relates to offences punishable with death or imprisonment for life and the rest are all other non-bailable offences. With regard to the first category, S. 437(1) Cr.P.C imposes a bar to grant of bail by the Court or the officer in charge of a police station to a person accused of or suspected of the commission of an offence punishable with death or imprisonment for life, if there appear reasonable grounds for believing that he has been so guilty. Naturally, Therefore, at the stage of investigation unless there are some materials to justify an officer or the court to believe that there are no reasonable grounds for believing

that the person accused of or suspected of the commission of such an offence has been guilty of the same, there is a ban imposed under S. 437(1), Cr.P.C against granting of bail. On the other hand, if to either the officer in charge of the police station or to the court there appear to be reasonable grounds to believe that the accused has been guilty of such an offence there will be no question of the court or the officer granting bail to him. In all other non-bailable cases, judicial discretion will always be exercised by the court in favor of granting bail subject to sub-section (3) of Section 437, Cr.P.C with regard to imposition of conditions, if necessary. Under sub-section (4) of S. 437, Cr.P.C an officer or a court releasing any person on bail under sub-sec (1) or sub-sec(2) of that section is required to record in writing his or its reasons for so doing. That is to say, law requires that in non-bailable offences punishable with death or imprisonment for life, reasons have to be recorded for releasing a person on bail, clearly disclosing how discretion has been exercised in that behalf."

15. Another significant judgment by the Supreme Court is Babu Singh and Others v. The State of Uttar Pradesh MANU/SC/0059/1978 : 1978CriLJ651 wherein value of personal liberty of an accused or even convict guaranteed by the Constitution was considered to be so fundamental that the Supreme Court held that:-

"Personal liberty deprived when bail is refused, is too precious a value of our constitutional system recognised under Art. 21 that the crucial power to negate it is a great trust exercisable, not casually but judicially, with lively concern from the cost to the individual and the community. To glamorise impressionistic orders as discretionary may, on occasions, make a litigative gamble decisive of a fundamental right. After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of 'procedure established by law'. So deprivation of personal freedom, ephemeral or enduring, must be founded on the serious considerations, relevant to the welfare objectives of society, specified in the Constitution."

16. Again view of Supreme Court in Gudikanti Narasimhulu and others v. Public Prosecutor, High Court of Andhra Pradesh MANU/SC/0089/1977 : 1978CriLJ502 is in unanimity with the aforesaid views wherein broad principles governing the grant or refusal of bail were laid down

17. In nutshell, the following principles emerge for grant or refusal of bail under Section 437 Cr.P.C:-

(i) Bail should not be refused unless the crime charged is of the highest magnitude and the punishment of it assigned by law is of extreme severity;

(ii) Bail should be refused when the court may reasonably presume, some evidence warranting that no amount of bail would secure the presence of the convict at the stage of judgment;

(iii) Bail should be refused if the course of justice would be thwarted by the person who seeks the benignant jurisdiction of the Court to be freed for the time being;

(iv) Bail should be refused if there is likelihood of the applicant interfering with witnesses for the prosecution or otherwise polluting the process of justice; and

(v) Bail should be refused if the antecedents of a man who is applying for bail show a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail.

18. On the premise of aforesaid principles, it can safely be said that while considering the application under Section 437 Cr.P.C court cannot be oblivious of firstly the fact that Investigating Officer did not deem it necessary to either arrest the accused during investigation or forward him in custody under Section 170 Cr.P.C while filing the charge sheet under Section 173 Cr.P.C; secondly that the court while taking cognizance did not find the circumstances existing in Section 87 Cr.P.C while procuring the appearance of the accused through warrant of arrest that the accused has either been absconding or is concealing himself and issued summons for him. Ordinarily these circumstances would be favorably disposed in favor of the accused in granting bail unless the magnitude of the offence and punishment Therefore is very high and severe and there is likelihood of the accused interfering with witnesses.'

19. In another case *Court On Its Own Motion v. Central Bureau of*

Investigation 109 (2003) DLT 494, this Court observed that legal position has been laid down in various cases decided from time to time for guidance and compliance by subordinate Courts but the orders passed by the subordinate Courts reflect violation of the law laid down by this Court and Supreme Court. It was also observed that disobedience or disregard of the law laid down by the High Court by the subordinate Courts is not only against the very concept of rule of law but also verges on contempt of Court as subordinate Courts are, by way of constitutional provisions, bound by the decision of the local High Court, as is every Court of the country including the High Courts, bound by the decisions of the Supreme Court by virtue of provisions of Article 141 of the Constitution. If the subordinate Courts start ignoring the law laid down by their High Courts and start acting contrary thereto, then not only the legal anarchy will set in but the democratic structure of the country, rule of law and concept of liberty of citizens will be the first casualty.

20. The directions issued for criminal Courts are contained in para 26 of the report, which are extracted as under :

'26. Arrest of a person for less serious or such kinds of offence or offences those can be investigated without arrest by the police cannot be brooked by any civilized society.

Directions for Criminal Courts :

(i) Whenever officer-in-charge of police station or Investigating Agency like CBI files a charge-sheet without arresting the accused during investigation and does not produce the accused in custody as referred in Section 170, Cr.P.C. the Magistrate or the Court empowered to take cognizance or try the accused shall accept the charge-sheet forthwith and proceed according to the procedure laid down in Section 173, Cr.P.C. and exercise

the options available to it as discussed in this judgment. In such a case the Magistrate or Court shall invariably issue a process of summons and not warrant of arrest.

(ii) In case the Court or Magistrate exercises the discretion of issuing warrant of arrest at any stage including the stage while taking cognizance of the charge-sheet, he or it shall have to record the reasons in writing as contemplated under Section 87, Cr.P.C. that the accused has either been absconding or shall not obey the summons or has refused to appear despite proof of due service of summons upon him.

(iii) Rejection of an application for exemption from personal appearance on any date of hearing or even at first instance does not amount to non-appearance despite service of summons or absconding or failure to obey summons and the Court in such a case shall not issue warrant of arrest and may either give direction to the accused to appear or issue process of summons.

(iv) That the Court shall on appearance of an accused in a bailable offence release him forthwith on his furnishing a personal bond with or without sureties as per the mandatory provisions of Section 436, Cr.P.C.

(v) The Court shall on appearance of an accused in non-bailable offence who has neither been arrested by the police/Investigating Agency during investigation nor produced in custody as envisaged in Section 170, Cr.P.C. call upon the accused to move a bail application if the accused does not move it on his own and release him on bail as the circumstance of his having not been arrested during investigation or not being produced in custody is itself sufficient to entitle him to be released on bail. Reason is simple. If a person has been at large and free for several years and has not been even arrested during investigation, to send him to jail by refusing bail suddenly, merely because charge-sheet has been filed is against the basic principles governing grant or refusal of bail.

(vi) That the Court shall always keep the mandatory provisions of Section 440, Cr.P.C. in mind while fixing the amount of bail bond or surety bond which provides that the amount of bond shall never be "excessive" amount and take into consideration the financial condition, the nature of offence and other conditions, as "Excessive" amount of bond which a person is not in a position to furnish amounts to denial of bail in a non-boilable offence and conversion ofailable offence into non-boilable offence as the fundamental concept of granting bail on bond is security of appearance of the accused person to answer the charges and face the trial. Nothing more nothing less.

Principles that govern the grant of refusal of bail in other kinds of cases and shall be followed in letter and spirit are as under:

(a) bail should not be refused unless the crime charged is of the highest magnitude and the punishment of it prescribed by law is of extreme severity;

(b) bail may be refused when the Court may reasonably presume, some evidence warranting that no amount of bail would secure the presence of the convict at the stage of judgment;

(c) bail may be refused if the course of justice would be thwarted by the person who seeks the benignant jurisdiction of the Court to be freed for the time being;

(d) bail may be refused if there is likelihood of the applicant interfering with witnesses for the prosecution or otherwise polluting the process of justice; and

(e) bail may be refused if the antecedents of a man who is applying for bail show a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail;

(f) similarly, the Court shall not while releasing a person on bail put any condition, say in the form of deposit of extra amount or FDR etc. of any amount which is beyond the conditions permissible under Section 439, Cr.P.C.'

21. Reverting to the facts of the present case, at no stage, CBI expressed its apprehension that the Petitioner is abusing his position or exploiting his links with his ex-colleagues or had made any attempt to influence the witnesses or tamper with the evidence. Generally, CBI investigates the cases which involves national and international ramifications or where people holding high positions of power and influence or political clout are involved and not the cases of the nature of petty offences. The case of the Petitioner should have been distinguished by learned Special Judge/CBI from other cases wherein learned Special Judge/CBI ordered the release of accused persons on bail who were not arrested during investigation. (see *para 8 of this order*). Since learned Special Judge/CBI herself has observed that law of land should be equal for all, it applied to the case of the Petitioner also especially when directions to this effect have already been issued by this Court in ***Court On Its Own Motion v. Central Bureau of Investigation*** (Supra).

22. It is necessary to note here the submission made by learned Sr.PP for the CBI before learned Special Judge/CBI, while opposing the bail application, which are as follows :

- (i) The Applicant was holding No.2 position in Indian Army and immediately after his retirement, offered bribe to the then COAS.
- (ii) The offence is not small and there is statement of Gen.V.K.Singh (Retd.) as well recorded proceedings of the Parliament about the statement made by the then Defence Minister Mr.A.K.Antony on this issue.
- (iii) Law of land is equal for all and if for commission of theft of Rs.200/-, a small thief is sent to Jail under the provisions of law then no leniency should be shown to the Petitioner, who retired from a senior position in

Indian Army.

23. CBI did not oppose the plea of bail on the ground that due to his position, the Petitioner may influence the witnesses. It may be noted that the learned Special Judge/CBI has not dismissed the bail application of the Petitioner due to the fear expressed by the CBI that Petitioner, if released on bail, was likely to influence the witnesses.

24. The bail application of the Petitioner has been rejected for the following reasons:

*‘....In my view, the submissions of Ld. Sr.PP for CBI bears force. The law of land should be equal for all and if a person who commits a theft of Rs.1,000/- is sent to the Jail under the provisions of law without any mercy then a person who was holding the rank of Lt.General in the Indian Army and who retired from this post and offered a bribe of Rs.14 Crores to the then Army General should not be shown any mercy by the Court merely for the reason that investigation agency did not arrest him during the whole investigation. Not only there is statement of then General (Rt.) V.K.Singh but also there is recorded proceedings of Parliament of India where this issue was raised. Hence, no ground for bail to applicant Lt.General (Rt.) Tejinder Singh. His application is dismissed.
.....’*

25. Since the reasons recorded by learned Special Judge, while dismissing the application of the Petitioner for grant of bail are against the settled legal principles laid down by this Court and Apex Court as discussed above, I am of the considered view that Petitioner deserves to be enlarged on bail.

26. Accordingly, it is directed that Petitioner be released on bail on his furnishing personal bond in the sum of Rs.1 lac with one surety in the like amount to the satisfaction of learned Trial Court, subject to the following

conditions that :

- (i) the Petitioner shall not leave the country without the permission of the learned Trial Court.
- (ii) the Petitioner shall not try to contact any of the witnesses in any manner whatsoever during the trial of this case.

27. Bail application stands disposed of. Any observations made hereinabove for the purpose of dealing with the contentions of counsel for the parties shall not be deemed to be an expression on merits of the case.

A copy of the order be given *dasti* to learned counsel for the parties under the signature of Court Master.

PRATIBHA RANI, J

SEPTEMBER 05, 2014

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