

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 520 OF 2013
IN
CRI. WRIT PETITION NO. 2290 OF 2005**

Col. D. N. Sharma (Retd.) ... Applicant.

V/s.

The State (The Superintendent of Police,
CBI, Economic Offences Wing), Mumbai-1 ... Respondent.

Mr. P.A. Pol i/by Pol Legal Juris for the Applicant.

Mr. A.R. Patil, APP for the State.

Mr. H.S. Venegavkar, Advocate for the CBI.

**CORAM : M.L.TAHALIYANI,J.
DATE : 25th FEBRUARY, 2015**

P.C. :

1 The applicant is admittedly owner of Flat No. 506, Dara Enclave, Army Welfare Housing Organization (AWHO), situate at Plot No.6, Sector -9 at Nerul, Navi Mumbai. The said flat was given to one Abhinav Singh on leave and licence/care taker basis. Abhinav Singh was working in Customs Department. The CBI had registered a case against said Abhinav Singh for the alleged offences committed by him punishable under sections 120B r/w. 420, 467, 468 and 471 of Indian Penal Code and sections 13(2), r/w. 13(1)(d) of the Prevention of Corruption Act.

2 During investigation of the said case Abhinav Singh could not be traced and he is not traceable till today. It may be noted here that the offence was registered in the month of September, 1999. The flat, description of which is given here-in-above, was broken open by the CBI Officers for taking search of the flat. During the course of search, certain articles were found and they were seized. I am informed that the articles are still lying in the said premises.

3 The applicant moved Special Judge for handing over possession of the flat to him. His prayer was rejected. He, therefore, moved this court by way of filing writ petition no. 2290 of 2005. This court while disposing of the petition passed the following order :

“In the circumstances, this petition needs to be allowed. The keys of the flat owned by the petitioner be handed over to him by the respondent on furnishing acknowledgement and Indemnity bond of Rs. 5,00,000/- in favour of C.B.I. to hand over the possession of the said flat to the respondent as and when directed by it. Undertaking of the petitioner to this Court shall also be submitted that he be deliver possession of the same to the proclaimed offender/licencee, Abhinav Singh as and when he appears and claims for the same, without claiming any right as per this order.”

4 This application is moved to relieve the applicant of the indemnity bond executed by him in favour of the CBI. I have heard learned counsel Mr. Pol on behalf of the applicant and the learned additional public prosecutor Mr. A.R. Patil for the State. Learned counsel Mr. Venegavkar is heard on behalf of the CBI. It is an admitted position that the Flat in question belongs to the applicant. It is further an admitted position that the flat is not required for further investigation of the case pending against the said Abhinav Singh. The Applicant is a retired Army Officer and has reached age of about 71 years. Since the flat is not required by the CBI for further investigation, I pass following order :

- i. The Applicant is relieved of the bond executed by him in the sum of Rs. 5,00,000/-. The bond shall accordingly stand cancelled.
- ii. The articles seized by the CBI during the investigation, shall be removed from the Flat by the CBI within a period of two weeks from today.

5 The application stands disposed of in the above terms.

(JUDGE)

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