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

+ **W.P.(C) 5990/2018 & CM APPL. 23339/2018**

DR. YAWAR WATIALI Petitioner
Through: **Mr. Shariq J. Reyaz, Advocate.**

versus

**HIGH COURT OF NEW DELHI THROUGH ITS REGISTRAR
GENERAL AND ANR.** Respondents
Through: **Mr. Rajshekhar Rao and Mr. Karthik
Sundar, Advocates for R-1.
Mr. Abhay Prakash Sahay, CGSC for
R-2 along with Mr. Abhishek
Bagaria, A.P.O., N.I.A. and
Mr. Arvind Negi, S.P., N.I.A.**

**CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA**

**ORDER
31.05.2018**

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This Court has heard the counsel for the parties.

The writ petitioner's grievance is that the sudden transfer of cases from the existing Court hearing N.I.A. cases to another Court has resulted in injustice to him inasmuch as a pending bail application, which was scheduled for disposal, was transferred. Therefore, the petitioner seeks directions from this Court that the previous Judge, who has heard the bail application ought to dispose of the bail application as all the submissions have been practically

concluded. He relied upon the orders of this Court reported as '*Javed Ahmed Tantray and Anr. Vs. Delhi High Court and Anr.*', W.P.(C) 5661/2013 decided on 17.09.2013.

He also relied upon the Full Bench decision in '*Subhashini Malik vs. S.K. Gandhi & Ors.*', (2016) SCC online Delhi 5058.

The counsel for the respondent submitted that this Court may pass appropriate orders with respect to the hearing and disposal of the bail application afresh by the concerned Judge, who has now been entrusted with the matter, and that it would not be appropriate for the previous Judge being directed to pass the order.

The facts in *Javed Ahmed Tantray's case* (supra) were that after recording evidence and the statement of the accused under Section 313 Cr.P.C. extensive arguments were made by the parties and the Judge had reserved the case for orders. In these circumstances, the Court felt that to subject the parties to a *de novo* hearing would act unjustly. The Full Bench decision in *Subhashini Malik's case* (supra) however was in the context of transfer of cases pursuant to the enactment of the Commercial Courts Act to approach the Court if the suit or civil cause reaches a certain advanced stage, it would be inappropriate to transfer the cases. In the present case, no doubt some adverse impact would be felt by the petitioner because his bail application was heard and was scheduled for disposal, nevertheless, the Court is of the opinion that no exception can be taken to the general approach that barring rare cases, the Court which is entrusted with the case through transfer should deal with it fully. Keeping in

W.P.(C) 5990/2018 *Page 2 of 3*

mind, however, the likelihood of some prejudicial impact, given that the bail application in the petitioner's case was heard for some time, the Court is of the opinion that instead of the date scheduled for hearing i.e. 17.07.2018, the concerned Judge Ms.Poonam Bamba, District & Sessions Judge should advance the hearing of the case NIA vs. Hafeez Mohammad Syed, RC No.10/2017/NIA/DLI and it should be listed before her on 4th June, 2018.

The District & Sessions Judge is requested to proceed and hear the bail application expeditiously and if possible on day-to-day basis and after conclusion of the hearings pass appropriate orders, preferably by the end of June, 2018.

The petition is disposed of in the above terms along with pending applications.

The concerned Registrar is directed to communicate this order to Ms.Poonam Bamba, District & Sessions Judge, independently during the course of the day.

Order *Dasti* under the signatures of the Court Master.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

MAY 31, 2018

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W.P.(C) 5990/2018

Page 3 of 3