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

Date of decision: 04.12.2019

+ CRL.M.C. 6226/2019

CHANDRA PRABHA KHANNA Petitioner

Through: Mr. Rakesh Kr. Singh and
Mr. Arunav Tewari, Advs.

versus

CBI

..... Respondent

Through: Mr. Amrit Singh Khalsa and
Ms. Hiteshi Kakkar, Advs. for CBI

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (O R A L)

CRL.M.A. 41848/2019 (Exemption)

1. Allowed, subject to all just exceptions.
2. This application is, accordingly, disposed of.

CRL.M.C. 6226/2019 and CRL.M.A. 41849/2019 (Stay)

3. Vide the present petition, the petitioner seeks direction thereby to set aside the order dated 29.11.2019 passed by the learned Special Judge (PC Act) CBI-14, Rouse Avenue Court Complex, New Delhi while rejecting the application filed by the wife of the accused no. 11 in the case titled ***CBI vs A.K. Shankaran & Ors*** (Raman Vihar CGHS), whereby the case pertaining to the accused no. 11 was separated vide separate order and the case has

been now listed as ***CBI vs Karta Ram Khanna***, numbered 152/2019 ***CBI vs Karta Ram Khanna*** (Raman Vihar CGHS). He further seeks direction thereby directing the learned Special Court to seek proper clarification from the medical board in the light of the facts that whether the statement of the accused can be recorded under Section 313 Cr.P.C., since the accused is not able to write and speak as has been held by the medical board vide its report dated 05.08.2019.

4. In the statement recorded under Section 313 Cr.P.C., incriminating evidence has to be put to the accused to seek his reply thereto. If the reply of the accused is 'Yes' or 'No' and the accused is unable to speak and write, the said accused can answer by gestures in 'Yes' or 'No'. But at the end, the Court has to give liberty to the accused to say something in his defence and whether he would like to examine defence witnesses. As per the report dated 05.08.2019, the accused is unable to write and speak and therefore, the statement under Section 313 Cr.P.C. cannot be completed.

5. Since the report is of 05.08.2019, therefore, I hereby direct the Trial Court to defer the further recording of the statement under Section 313 Cr.P.C. of the accused and to issue necessary directions for the accused to be presented before the medical board seeking proper clarification as to

whether the accused No. 11 can now speak or write. Till then, no coercive steps shall be taken against the accused, since he is already on bail. Trial Court shall decide the date on which the statement of the accused shall be recorded, on the basis of the further report of the medical board.

6. In view of the above, the petition is allowed and disposed of. Pending application also stands disposed of.

7. The Registry of this Court is directed to transmit the order passed by this Court to the Trial Court through Special Messenger immediately.

8. Order *dasti* under the signatures of Court Master.

(SURESH KUMAR KAIT)
JUDGE

DECEMBER 04, 2019

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