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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. No.1619/2020.**

LAXMI DEVI PANWAR Petitioner
Through: Mr.M.N.Dudeja, Advocate with
Mr.Aditya , Advocate

versus

CENTRAL BUREAU OF INVESTIGATION Respondent
Through: Mr.Ripudaman Bhardwaj, SPP for
CBI

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **20.08.2020**
(Hearing through Video Conferencing)

Vide the present petition, the petitioner assails the conditions imposed vide the impugned order dated 12.3.2020 of the learned Special judge (PC Act) CBI-21, Rouse Avenue Court, New Delhi, in relation to CBI No. 11/19 RC no. 1(A)/2003/CBI/ACU-VII/ND whereby the application dated 29.11.2019 filed by the petitioner herein seeking the return of the articles of jewellery, though the articles of jewellery did not form part of the disproportionate assets of the petitioner during the course of investigation, the articles of jewellery were directed to be released to the petitioner subject to deposit of an FDR/bank guarantee in the sum of Rs.30,00,000/- with directions that the applicant shall also file an indemnity bond giving the specification of the articles and that the applicant, i.e., the

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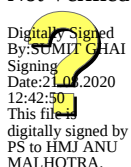
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petitioner herein would not dispose of the jewelery pending trial and shall produce the same in the Court in the event of their requirement before the Court and that though the identity of the jewelery articles was not in dispute as they did not form the part of the DA, the claim of the prosecution against the applicant, i.e., the petitioner herein being that of security for the fine amount to be on safer side the Investigating Officer would take the photographs of the jewelery articles before releasing. The condition imposed of the FDR/bank guarantee in the sum of Rs.30,00,000/- is assailed on behalf of the petitioner submitting to the effect that the condition is harsh and that the petitioner is aged 69 years and a retired public servant and has retired as the Vice Principal of a school that the Jewellery of 1159.700gms belongs to her over the period of years.

Inter alia, it has been submitted on behalf of the petitioner that such a condition of submitting an FDR/bank guarantee in the sum of Rs.30,00,000/-for the release of the articles which undoubtedly belonged to her, is onerous and against the canons laid down in **Ashok Chaddha V. Income Tax Officer 2011 SCC OnLine Del 2696**, as well as as laid down in **D.N UPADHAYAY V. C.B.I 2017 SCC OnLine 7581**, that if the articles or documents seized by the CBI do not form part of the case properties or are not relied before the trial court then the CBI cannot object to the return of the same to its authorized person.

On behalf of the CBI, learned SPP for the CBI submits that the articles of jewelery weighed a Kilogram and in the present day times and the value of gold, the condition imposed of the FDR/bank

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Guarantee in the sum of Rs.30,00,000/- cannot be termed to be onerous in as much as the value of the articles of jewellery recovered during the course of investigation now exceeds a crore of rupees. Inter alia, it is submitted on behalf of the CBI that the requirement of the imposition of the condition of FDR/bank guarantee is in the event of securing the fine. Taking into account the factum however that it is the cardinal principle of criminal jurisprudence that an accused is presumed to be innocent till proved guilty, the said contention cannot be accepted.

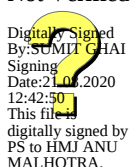
In the circumstance, however, in the interest of justice, it is considered appropriate to reduce the condition which is imposed of the deposit of the FDR/bank guarantee in the sum of Rs.30,00,000/- to the tune of a bank guarantee of Rs.5,00,000/- which be submitted by the petitioner before the Trial Court and further more in accordance with the impugned order dated 12.3.2020, the indemnity bond as directed thereby giving specifications of the articles be submitted and it is further directed herein that the petitioner shall specify the purity of the articles and their weight be submitted before the Trial Court with the directions that the petitioner shall not dispose of the articles in any manner whatsoever.

With these observations, the petition is disposed of.

ANU MALHOTRA, J

AUGUST 20, 2020/SV

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