



* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(CRL) 1409/2022

Order reserved on : 04.07.2022

Date of decision : 04.07.2022

CENTRAL BUREAU OF INVESTIGATION Petitioner

Through: Mr. Anupam S Sharma, SPP for
CBI with Mr. Prakash Airan,
Ms. Harpreet Kalsi, Advocates
along with Inspector CMS
Negi, CBI, ACB, New Delhi.

Versus

S ESWARA REDDY & ORS. Respondent

Through: Mr. Arun Khatri, Advocate for
R-1.
Mr. Vikas Pahwa, Sr. Advocate
with Ms. Suruchi Suri & Ms.
Raavi Sharma, Advocates for
R-2.
Mr. Siddhartha Aggarwal, Sr.
Advocate with Mr. Arjun
Mahajan, Mr. Daves Bhatia,
Mr. Rajat Mathur & Mr.
Raghvendra, Advocates for R-
3.
Mr. Abhishek Manu Singhvi,
Sr. Advocate, Mr. Dayan
Krishnan, Sr. Advocate, Mr.
Trideep Pais, Sr. Advocate with
Mr. Mahesh Agrawala, Mr.
Rishi Agrawala, Mr. Avishkar
Singhvi, Mr. Parminder Singh,



Mr. Vishnu Tallapragada, Mr. Shubham Kulshrestha, Mr. Sandeep Khairwal & Mr. Ashish Hira, Advocates for R-4. Mr. Shrikant Prasad, Mr. Kumar Gaurav, Mr. Dewashish Vishwakarma, Mr. Rajkishore Prasad Kushwaha & Mr. Chirag Gulati, Advocates for R-5.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

JUDGMENT

ANU MALHOTRA, J.

1. The Central Bureau of Investigation (hereinafter referred to as 'the CBI') vide the present writ petition under Article 226 read with Article 227 of the Constitution Of India, read with Section 482 of the Cr.P.C., 1973 assails the impugned order dated 23.6.2022 of the learned Vacation Judge, CBI-19, P.C. Act, Rouse Avenue District Courts, New Delhi, whereby the prayer made by the CBI seeking four days' police custody remand of all the accused persons arrayed as the respondents No.1 to 5 to the present petition arrayed as accused in relation to RC No. 0032022A0037 Police Station CBI, ACB, New Delhi under Sections 7, 7A and 8 of the Prevention of Corruption Act, 1988 and Sections 120-B/420/468/471 of the Indian Penal Code, 1860,- was declined.



2. The respondent No.1 Sh. S. Eswara Reddy, respondent No.2, Ms.Guljit Sethi @ Guljit Chaudhri, respondent No.3 Dinesh Dua and respondent No.4 L.Praveen Kumar were arrested on 20.6.2022 and the respondent no.5 Animesh Kumar was arrested on 21.6.2022 and the respondent Nos. 1,2, 3 and 5 were produced before the Court of the Special Judge, CBI, Rouse Avenue, on 21.6.2022 and on the prayer made by the CBI seeking five days' police custody remand, the said accused persons, i.e., respondent nos. 1,2, 3 and 5 were remanded to one day police custody remand by the Special Judge CBI, Rouse Avenue District Courts, New Delhi. The respondent No.4, Praveen Kumar though arrested on 20.6.2022 having been arrested at Bengaluru was produced before the concerned Court of the ACMM, Bengaluru on 21.6.2022 and the transit remand was granted for production of the said accused before the Court of the Vacation Judge, CBI-19, RADC, New Delhi vide order dated 21.6.2022 with directions to produce the accused, i.e., respondent No.4 before the Special Judge CBI, PC Act, RADC, New Delhi on or before 23.6.2022 at 4 p.m.. Thus respondent No.4 Praveen Kumar was produced on 22.6.2022 before the Vacation Judge, CBI-19, PC Act, RADC, New Delhi.

3. The CBI also produced the remaining four accused, i.e., the respondent Nos. 1,2, 3 and 5 from police custody on 22.6.2022 before the learned Vacation Judge, CBI-19, P.C.Act whilst praying for extension of four days' police custody remand of the respondent Nos. 1,2, 3 and 5 and seeking four days police custody remand of the respondent No.4.



4. The respondent Nos. 1,2,3 and 5 vide order dated 21.6.2022 of the Vacation Judge/Special Judge (PC Act), CBI-08, RADC, New Delhi on the application filed by the CBI seeking police custody remand of the said four accused persons for five days were remanded to the custody of the Investigating Officer for one day i.e., till 22.6.2022 when they were directed to be produced before the Court prior to 5:00 PM on 22.6.2022. On 22.06.2022, it was observed by the learned Vacation Judge/Special Judge (PC Act), CBI-08, RADC, New Delhi, that it was then already 5:45 PM and hearing submissions on the application of the CBI (which included seeking extension of police custody remand for four days of the accused no. 1, 2, 3 & 5 and seeking four days police custody remand of accused no. 4 apart from the application of the CBI seeking taking of voice samples of the accused Nos. 1 & 4 being pending) was not feasible then and the applications were adjourned for hearing for the date 23.6.2022 at 11:30 a.m. and all the accused persons were sent to judicial custody with directions to the Jail Superintendent, Tihar, to produce all the accused persons on 23.6.2022 at 11 :00 a.m. with further directions to keep each of the accused persons in different cells as the application of the CBI seeking police custody remand was pending.

5. Before advertng to the merits or demerits of the prayer made by the CBI and the submissions made on behalf of either side, it is essential to observe that in terms of Section 167 (2) and Proviso 'a' thereto, the Magistrate to whom an accused person is forwarded in terms of Section 167 (1) of the Cr.P.C., 1973, on arrest and detention in custody may authorize the detention of such accused person



otherwise than in the custody of the police, beyond the period of 15 days if he is satisfied that adequate grounds exist for doing so. The verdict of the Hon'ble Supreme Court in ***Central Bureau of Investigation/Special Investigation Cell-I V. Anupam J. Kulkarni***: (1992) 3 SCC 141, categorically lays down vide paragraph 13 thereof to the effect:-

“13. Whenever any person is arrested under Section 57 CrPC he should be produced before the nearest Magistrate within 24 hours as mentioned therein. Such Magistrate may or may not have jurisdiction to try the case. If Judicial Magistrate is not available, the police officer may transmit the arrested accused to the nearest Executive Magistrate on whom the judicial powers have been conferred. The Judicial Magistrate can in the first instance authorise the detention of the accused in such custody i.e. either police or judicial from time to time but the total period of detention cannot exceed fifteen days in the whole. Within this period of fifteen days there can be more than one order changing the nature of such custody either from police to judicial or vice-versa. If the arrested accused is produced before the Executive Magistrate he is empowered to authorise the detention in such custody either police or judicial only for a week, in the same manner namely by one or more orders but after one week he should transmit him to the nearest Judicial Magistrate along with the records. When the arrested accused is so transmitted the Judicial Magistrate, for the remaining period, that is to say excluding one week or the number of days of detention ordered by the Executive Magistrate, may authorise further detention within that period of first fifteen days to such custody either police or judicial. After the expiry of the first period of fifteen days the further remand during the period of investigation can only be in judicial custody. There cannot be any detention in the police custody after the expiry of first fifteen days even in a case where some more offences either serious or otherwise committed by



him in the same transaction come to light at a later stage. But this bar does not apply if the same arrested accused is involved in a different case arising out of a different transaction. Even if he is in judicial custody in connection with the investigation of the earlier case he can formally be arrested regarding his involvement in the different case and associate him with the investigation of that other case and the Magistrate can act as provided under Section 167(2) and the proviso and can remand him to such custody as mentioned therein during the first period of fifteen days and thereafter in accordance with the proviso as discussed above. If the investigation is not completed within the period of ninety days or sixty days then the accused has to be released on bail as provided under the proviso to Section 167(2). The period of ninety days or sixty days has to be computed from the date of detention as per the orders of the Magistrate and not from the date of arrest by the police. Consequently the first period of fifteen days mentioned in Section 167(2) has to be computed from the date of such detention and after the expiry of the period of first fifteen days it should be only judicial custody.”

6. It has thus been categorically laid down by the Hon’ble Supreme Court thereby that the Judicial Magistrate can in the first instance authorize the detention of the accused in such custody, i.e., either police or judicial, from time to time but the total period of extension cannot exceed 15 days in the whole and within this period of 15 days there can be more than one order changing the nature of the custody either from police to judicial or vice-versa. Thus it is specifically laid down by the Hon’ble Supreme Court vide observations in paragraph 13 of the said verdict reproduced herein above that there cannot be any detention in the police custody after the expiry of the first 15 days even in a case where some more offences either serious or otherwise committed by the accused in the same



transaction come to light at a later stage, though, this bar does not apply if the same arrested accused is involved in a different case arising out of a different transaction.

7. Though a contention was sought to be raised during the course of submissions made on behalf of the respondents that there ought not to be change of the nature of the remand from judicial custody to police custody, as prayed by the CBI, it is settled law that during the first 15 days of the detention of an accused after being produced before the Magistrate, the custody can be changed from the police custody to judicial custody and judicial custody to police custody and can also be so done intermittently during this period of 15 days.

8. The other aspect that has essentially to be observed is that the accused persons, i.e., respondent Nos. 1,2, 3 and 5 were produced on 21.6.2022 before the Special Judge, PC Act (CBI-08), PC Act, RADCL, New Delhi, and in terms of the verdict of the Hon'ble Supreme Court in **CBI V. Anupam J. Kulkarni**; (supra) as observed in paragraph 4 thereof to the effect:

“..... It is at this stage sub-section (2) comes into operation which is very much relevant for our purpose. It lays down that the Magistrate to whom the accused person is thus forwarded may, whether he has or has not jurisdiction to try the case, from time to time, authorise the detention of the accused in such custody as he thinks fit for a term not exceeding fifteen days in the whole. If such Magistrate has no jurisdiction to try the case or commit it for trial and if he considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction. The section is clear in its terms. The Magistrate under this section can authorise the detention of the accused in such custody as he thinks fit but



it should not exceed fifteen days in the whole. Therefore the custody initially should not exceed fifteen days in the whole. The custody can be police custody or judicial custody as the Magistrate thinks fit. The words “such custody” and “for a term not exceeding fifteen days in the whole” are very significant. It is also well-settled now that the period of fifteen days starts running as soon as the accused is produced before the Magistrate.”

(emphasis supplied)

which thus makes it apparent that it has been laid down therein by the Hon’ble Supreme Court that it is well settled now that the period of 15 days starts running as soon as the accused is produced before the Magistrate. Thus, the accused i.e. respondent Nos. 1, 2, 3 and 5 having been produced on 21.6.2022 before the learned Special Judge, PC Act (CBI) -08, the period of 15 days in terms of Section 167 (2) of the Cr.P.C., 1973 and the Proviso ‘a’ thereto during which there can be remand to police custody made qua the said accused persons is limited to the date 5.7.2022 which would be the 15th day from the date of production before the Magistrate in the instant case i.e. the learned Special Judge, PC Act (CBI-08).

9. As regards accused/ respondent No.4 who was arrested on 20.6.2022 and was produced before the Vacation Judge, CBI-08, PC Act, on 22.6.2022, the period of 15 days in terms of Section 167(2) Proviso ‘a’ thereto would be limited to the date 6.7.2022 and not 5.7.2022 as was sought to be urged on behalf of the respondent no.4.

10. The CBI has submitted that the FIR/RC bearing RC0032022A0037 was registered by the petitioner-CBI on 19.06.2022 on the basis of source information against:



- Dr. S. Eswara Reddy, Joint Drug Controller (JDC), India at Head Quarter, CDSCO, New Delhi,
- Ms.Guljit Sethi @ Guljit Chaudhri, Director M/s Bioinnovat Research Services Private Limited, Delhi,
- Sh.Dinesh Dua, Director, M/s Synergy Network India Private Limited, Delhi,
- Sh.L. Praveen, Kumar, Associate Vice President and Head-National Regulatory Affairs (NRA), M/s Biocon Biologics Limited, Bangalore,
- Sh.Animesh Kumar, Assistant Drug Inspector (ADI), CDSCO, New Delhi;
- and other unknown officials of CDSCO, New Delhi for the commission of offences under Sections 7, 7A, 8 of the PC Act, 1988 and u/s 120-B, 420, 468 and 471 of IPC to contend that as per the FIR/RC No. 0032022A0037 that accused no.1 Dr. Status report Eswara Reddy, Joint Drug Controller, India, Head Quarter, Central Drugs Standard Control Organisation (CDSCO), New Delhi was dealing with processing of files related to applications for approval of drugs and vaccines by various pharmaceutical companies and in this regard, he received three files of M/s Biocon Biologics Limited, Bangalore including one file related to waiver of Phase-III, Clinical trial of “Insulin Aspart Injection” for processing and approval and a bribe for amount of Rs. 30,000/- was paid by accused Guljit Sethi i.e. the respondent no.2 herein to Animesh



Kumar, Assistant Drug Inspector (ADI) i.e. the respondent no.5 for processing the file.

11. As per the submissions made by the CBI, the accused Dr. S Eswara Reddy, in criminal conspiracy with co-accused persons and other unknown officers of CDSCO, manipulated minutes of the meeting of Subject Expert Committee including the aforesaid third file of M/s Biocon Biologics Limited, Bangalore in the SEC meeting on 15.06.2022 which resulted into wrongful gain to M/s Biocon Biologics Limited, Bangalore. The CBI has further submitted that as per the investigation conducted so far, it had been revealed that Guljit Sethi i.e. the respondent no.2 was acting as a conduit on behalf of pharmaceutical companies including aforementioned Pharma companies and had delivered/arranged huge bribe amounts for senior officers of CDSCO on different occasions for processing their respective files favorably. *Inter alia*, it was submitted by the CBI that the source has revealed that co-accused L. Praveen Kumar, AVP i.e. the respondent no.4 herein of M/s Biocon Biologics Limited, Bangalore had agreed to pay an undue pecuniary advantage of Rs 9,00,000/- (Rupees Nine Lacs) as motive/reward to Dr. S. Eswara Reddy, Joint Drug Controller, CDSCO, New Delhi for processing his file favorably and it was informed that Guljit Sethi i.e. the respondent no.2 directed Dinesh Dua i.e. the respondent no.3 to pay a part of the agreed amount to Dr. S. Eswara Reddy at his residence on 20.06.2022 and that on the basis of the said information, it was decided to lay a trap on 20.06.2022 and during the trap proceedings, Dr. S. Eswara



Reddy and Dinesh Dua were caught red-handed with a bribe amount of Rs.4,00,000/- (Rupees Four Lacs).

12. The CBI has further submitted that searches were conducted at the residential premises of accused/ respondent no.1- Dr. S. Eswara Reddy i.e D-II, 235, Vinay Marg, Chanakya Puri, New Delhi, accused/ respondent no.3 Dinesh i.e. at A-103, Narang Colony, Janak Puri, New Delhi, accused/respondent No.2 Guljit Sethi i.e. A-1/17, Safdarjung Enclave, New Delhi, accused/ respondent no.5-Animesh Kumar i.e.J 803, Skytech Mattrot, Sector – 76, Noida, Flat No. 202, Brindeshwar Enclave, Road no. 5, Indira Puri, Patna and accused/ respondent no.4 L. Praveen Kumar i.e.C-403, Hinduja Lake, Front Estate, Cave Temple Road, Hulimavu, Bengaluru. *Inter alia*, the CBI has submitted that searches were also conducted at the office premises of the aforesaid accused persons and various incriminating articles, documents related to the present case had been seized from the above residential and office premises of the accused persons. It has been submitted by the CBI that pursuant to the trap proceedings, Dr. S. Eswara Reddy, Joint Drug Controller (India), CDSCO, Head Quarter, New Delhi, Dinesh Dua, Director, M/s Synergy Network India Private Limited, Delhi, Guljit Sethi @ Guljit Choudhri, Director M/s Bioinnovat Research Services Private Limited, Delhi were arrested on 20.06.2022 whilst Animesh Kumar, Assistant Drug Inspector (ADI), CDSCO, New Delhi was arrested on 21.06.2022.

13. The aforesaid accused persons i.e. Dr. S. Eswara Reddy i.e. respondent no.1, Dinesh Dua i.e. respondent no.3, Guljit Sethi i.e. respondent no.2 and Animesh Kumar, i.e. respondent no.5 were



produced before the Court of Vacation Judge/Special Judge (PC Act), CBI-08, Rouse Avenue District Court, New Delhi on 21.06.2022 and 5 days police custody remand of the aforesaid accused persons was sought by the CBI submitted to the effect:-

“i. That the investigation of the case is at the initial stage and during interrogation of accused persons disclosed certain relevant facts to the case.

ii. Mobile phones and laptops belonging to the accused persons have been seized which are required to be investigated.

iii. That investigation of the case is underway and the public servant as well as private persons need to be confronted with other accused/suspect persons to ascertain their role in the commission of offence.”

14. Vide the application dated 21.06.2022, copy of which is annexed as Annexure-C, the CBI submitted to the effect that the investigation of the case was at the initial stage and during interrogation of accused persons, Dr. S. Eswara Reddy (accused no.1), Shri Dinesh Dua (accused no.3), Ms.Guljit Sethi @ Guljit Choudhri (accused no.2) and Sh. Animesh Kumar (accused no.5) disclosed certain facts relevant to the case and that the mobile phones and laptops belonging to the accused persons had been seized which were required to be investigated. The CBI also submitted that the investigation of this case was underway and the public servant, as well as private persons need to be confronted with other accused/suspect persons to ascertain their role in the commission of offence and five (05) days Police custody of accused Dr. S. Eswara Reddy, Shri Dinesh



Dua, Ms. Guljit Sethi @ Guljit Choudhri and Sh. Animesh Kumar was submitted by the CBI to be required for fair investigation.

15. *Inter alia*, the CBI submitted that Dr. S. Eswara Reddy, JDC has manipulated the Minutes of the Meeting of SEC held on 18.05.2022 by changing the word "Data" to "Protocol" in the recommendations thereby causing substantial wrongful gain to M/s Biocon Biologics Limited, Bangalore and as per the information it was revealed that Shri Dinesh Dua met Dr. S. Eswara Reddy at CDSCO Office on 15.06.2022 in connection with the approval of the third file during the SEC meeting scheduled on the same day and pursuant to the said conspiracy, Dr. S. Eswara Reddy assured Shri Dinesh Dua about a favourable decision in the SEC meeting and further on the same day, Shri Praveen Kumar, Associate Vice President of M/s Biocon Biologics Limited informed Ms. Guljit Sethi that the said file of M/s Biocon Biologics Limited, Bangalore was approved in the SEC Meeting and that as per the information received from the meeting held on 15.06.22 at CDSCO office, Dr. S. Eswara Reddy had provided his new residential address at Chanakyapuri to Shri Dinesh Dua to meet him personally at his residence at the end of the week.

16. The application of the CBI seeking five days police custody remand of the accused nos. 1, 2, 3 and 5 was disposed of vide order dated 21.06.2022 of the Court of the learned Special Judge, (PC ACT): CBI-08: RADC: ND limiting the grant of police custody to one day observing to the effect:-



“The custody of the four accused persons produced today is sought by the CBI in order to uncover the purported larger conspiracy and confront the accused persons with each other and/or other suspects.

The application has been opposed by the respective counsels essentially on the submission that after the completion of the trap proceedings, though denied as authentic, there remains no necessity for custodial interrogation. The very veracity of the source information is also challenged on the submission that the CBI has been ambivalent regarding the existence of any intercepted conversation but for the submission made by the Ld. PP for the CBI and the IO before the Court today.

The Court would observe in the context of the prayer for police custody/CBI custody that the requirements of investigation/ collection of evidence must be balanced against wanton grant of custody without reference to necessity. Here, the Court would highlight that while trap cases under the PC Act are indeed distinct from cases relating to disproportionate assets and fraud in as much as there is lesser requirement for locating such assets or details of fraud, the trap cases are still not without context. After all the present trap is the culmination of a chain of events which allegedly arose with the object of illegal gratification being agreed upon in order to abuse the process of grant of the purported waiver related to the medicine/drug in question. In this view, the investigating agency cannot be restrained from utilising or investigative options including custodial interrogation to determine the details of the said chain of events.

*The Court thus finds the prayer for PC to be justified. More so, since the accused persons have been arrested only late last night or today morning. **The term of five days is, however, excessive as the investigation in localised to Delhi and the remaining steps in investigation qua the accused essentially involve the***



stated intention of the CBI to confront the accused persons with each other and also with the voice recordings. One day should suffice for the said purpose.”

17. An application dated 22.06.2022 was filed by the CBI, whereby, it was submitted to the effect:-

“...

13. That on 21.06.2022, all the aforesaid accused persons except L. Praveen Kumar were sent to 01 day Police Custody vide order dated 21.06.2022 which expires today. It is further submitted that further police remand of 04 days of all the aforesaid accused including Sh. L. Praveen Kumar, presently on transit remand is required to unearth the role of other unknown persons who are in connivance of said accused persons who have committed the offence on following grounds:-

i. Accused Sh. L. Praveen Kumar was brought from Bengaluru on Transit Remand and has reached office late night on 21.06.2022. He has to be confronted with other accused and documents related to the case.

ii. Since the number of accused persons are 05, it is necessary to confront each other on different material evidences and the same is time consuming.

iii. The intercepted transcripts of the accused pertained to several months and therefore requires considerable time to examine each of the accused persons on the same.

iv. Several electronic devices have been seized during search operations conducted at 11 different places and it is necessary to examine these devices for incriminating materials with the help of CFSL



Experts. Upon retrieval of the electronic evidence, the same needs to be put forth before accused persons.

v. That investigation of the case is at the initial stage and confrontation of the arrested accused persons with the incriminating documents, Intercepted conversations, data contained in electronic devices and with each other is required for just investigation of the case.

vi. The matter is of serious concern related to public health and safety, requires deeper investigation and to unearth the larger conspiracy, hence further police custody of accused persons is required.

....”,

whereby, thus, the CBI sought police custody remand of all the five accused i.e. respondent no.1- Dr. S. Eswara Reddy, Joint Drug Controller (JDC), India at Head Quarter, CDSCO, New Delhi, respondent no.2 Ms. Guljit Sethi @ Guljit Chaudhri, Director M/s Bioinnovat Research Services Private Limited, Delhi, respondent no.3- Sh. Dinesh Dua, Director, M/s Synergy Network India Private Limited, Delhi, respondent no.4- Sh. L. Praveen, Kumar, Associate Vice President and Head-National Regulatory Affairs (NRA), M/s Biocon Biologics Limited, Bangalore and respondent no.5- Sh. Animesh Kumar, Assistant Drug Inspector (ADI), CDSCO, New Delhi for a further period of four days.

18. Vide the impugned order dated 23.06.2022, it was observed to the effect:-

“... ”



It is observed that the allegations against the accused persons are u/s 7, 7A & 8 of PC Act and u/s 420/468/471 IPC r/w sec. 120-B IPC; a perusal of record suggests that the material investigation with regard to the offences under PC Act was completed immediately after all the accused persons were arrested and remanded to one day police custody except accused no. 4 Praveen Kumar Laxminarayana (who was brought to Delhi on transit remand in the night of 21.06.2022) by the concerned court; the accused no. 4 Praveen Kumar Laxminarayana remained in police custody during the period, other accused persons were in police custody, therefore CBI was having ample opportunities to confront the accused Praveen Kumar Laxminarayana with other accused persons; no recovery in this case is to be effected; the extension of police custody remand is only sought for the purposes of interrogation and confrontation of the accused persons with each other and with some documents. It seems that the request of CBI was already considered by the concerned court on 21.06.2022 therefore, it seems that it is not in the interest of justice to extend the PC remand of the accused persons any further. Hence, the request of CBI to extend the PC remand of accused persons is declined. The application is disposed of accordingly.

....”,

and thus, the prayer made by the CBI seeking extension of police custody remand for a further period of four days qua the accused persons was declined.

19. Vide the present petition assailing the impugned order dated 23.06.2022 of the Court of the learned Vacation Judge, CBI-19 (PC



Act), Rouse Avenue Courts, New Delhi, it was submitted that the accused Sh. L. Praveen Kumar was brought from Bengaluru on Transit Remand and had reached the CBI office late night on 21.06.2022 and that he had to be confronted with other accused and documents related to the case and that as the number of accused persons were 05, it was necessary to confront each other on different material evidences and the same was time consuming and that the intercepted transcripts of the accused pertained to several months and therefore required considerable time to examine each of the accused persons on the same; that several electronic devices had been seized during search operations conducted at 11 different places and it was necessary to examine these devices for incriminating materials with the help of CFSL Experts and on retrieval of the electronic evidence, the same needs to be put forth before the accused persons. *Inter alia*, the CBI had submitted that the matter was of serious concern related to public health and safety, required deeper investigation and to unearth the larger conspiracy.

20. The CBI has submitted that vide the impugned order dated 23.06.2021, the learned Special Judge had erred in declining to extend the police custody remand of accused persons for a period of 04 days and had failed to appreciate that custodial interrogation was qualitatively more elicitation oriented than questioning a suspect who was well ensconced and in a case like this, effective interrogation of suspected persons was of tremendous advantage in disinterring many useful information and also materials which would have been concealed.



21. The CBI has submitted that the investigation of the case is still at its initial stage with it having been submitted by the CBI that the accused persons are to be confronted with one another as also with the incriminating documents, Intercepted conversations and data contained in electronic devices for the just investigation of the case.

22. Inter alia, the CBI submits that in the event of the police custody remand of the accused persons not being given to the petitioner, the CBI, the investigation would be hampered which would have a debilitating impact on the public health system and the safety of the citizens.

23. Inter alia, the CBI has submitted that the learned Special Judge erred in observing that the CBI had an ample opportunity to confront the accused/respondent no.4 L. Praveen Kumar with other accused persons in as much as the accused L. Praveen Kumar was brought from Bengaluru to Delhi on transit remand and reached the office of petitioner CBI late at night on 21.06.2022 and was produced before the learned Special Judge on 22.6.2022 along with the co-accused persons after getting them medically examined at the Safdarjung Hospital, Delhi, and as such there was no sufficient time to confront him with other accused persons and the documents related to the case.

24. Inter alia, the CBI submits that the custodial interrogation of the accused persons could not be completed during the duration of 1 day in view of the voluminous record and documents as well as the statements which were required to be confronted to them and the time



was not sufficient to confront all the material collected and required to be confronted to them.

25. The CBI further submits that the voluminous records recovered from the premises of the accused persons Dr.S.Eswara Reddy, Dinesh Dua, Guljit Sethi, Animesh Kumar and L. Praveen Kumar, the accused persons and the nature of transactions are such that a sustained interrogation is required. The CBI further submits that it is true that police custody is not the be-all and end-all of the investigation yet it is one of the primary requisites particularly in the investigation of the serious offences.

26. It is also submitted on behalf of the CBI that learned Special Judge failed to appreciate that a large number of recorded intercepted calls/conversations between the accused persons was received in digital format only on 22.06.2022 and therefore considerable time is required to examine each of the accused persons on the said aspect and that several electronic devices have been seized during search operations conducted at **11** different places in Delhi, Bengaluru and Patna and it was necessary to examine these devices for incriminating materials with the help of CFSL Experts and on retrieval of the electronic evidences simultaneously, the same needs to be put forth to the accused persons.

27. Inter alia, the CBI has submitted that the learned Special Judge has failed to appreciate that the recorded intercepted calls/conversations are to be transcribed and thereafter the accused persons would be subjected to confrontations among each other to



extract the real truth/conspiracy. The CBI submits that the investigation is at a nascent stage and the custodial interrogation of accused persons is required to unearth the entire conspiracy.

28. The CBI has inter alia placed reliance on the verdict of the Hon'ble Supreme Court in *M. Ravindran V. Intelligence Officer, Directorate of Revenue Intelligence* : AIR 2020 SC 5245, *State represented by the CBI V. Anil Sharma*; AIR 1997 SC 3806, *P.Chidambaram V. Directorate of Enforcement*; AIR Online 2019 SC 1001, Assistant Director, Directorate of Enforcement V. Sunil Godhwani; CrI.M.C. 6018/2019 a verdict of this Court dated 27.11.2019 to contend to the effect that the investigation of the offence is a field exclusively reserved for the executive through the police department and once the Investigating Agency finds an offence having been committed it is its duty to collect evidence for the purpose of proving an offence with it having been submitted that depending on the facts of each case it is for the Investigating Agency to confront the accused with the material only when the accused is in custody and that the custodial interrogation is a recognized mode of interrogation which is not only permissible but has been held to be more effective.

29. Reliance has been placed by the CBI on the verdict of the Hon'ble Supreme Court in *State, represented by the CBI V. Anil Sharma*; (1997) 7 SCC 187, with observations in para 6 thereof, which reads to the effect:



“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

with reliance also placed on behalf of the CBI on the observations of the Hon’ble Supreme Court in ***Adri Dharan Das v. State of West Bengal* (2005) 4 SCC 303** with observations in para 19 thereof to the effect:

“19. Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of



material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his disappearance, to maintain law and order in the locality.....”

30. Reliance has also been placed on behalf of the petitioner on the observations in paragraph 81 of the verdict in ***P. Chidambram V. Directorate of Enforcement*** (supra) which read to the effect:

“Grant of anticipatory bail at the stage of investigation may frustrate the investigating agency in interrogating the accused and in collecting the useful information and also the materials which might have been concealed. Success in such interrogation would elude if the accused knows that he is protected by the order of the court.”

submitting thus that though the verdict in ***P. Chidambram V. Directorate of Enforcement (supra)*** relates to the aspect of grant or non grant of an anticipatory bail, the factum that appropriate investigation can be conducted by way of collection of more information in relation to recovery of relevant information where an accused is in custody and specially when the accused is in police custody.

31. Inter alia, it has been submitted by the CBI that in cases of voluminous records with which the accused persons are required to be confronted wherein the voluminous record and gravity of offence requires further police custody remand, it ought to be granted.



32. On behalf of the respondents reliance has been placed inter alia on the Delhi High Court Rules and Orders in relation to remand to Police Custody to submit that non-completion of an investigation in the absence of a special order of a Magistrate cannot be deemed to be a sufficient case for the detention of an accused person by the police and before making an order for remand to police custody under Section 167 of the Cr.P.C., 1973, the Magistrate should satisfy himself that primary grounds for believing that the accusations against the person sent up by the police is well founded and that there are good and sufficient reasons for remanding the accused to police custody instead of detaining him in magisterial custody and under no circumstances should an accused person be remanded to police custody until it is made clear that his presence is actually needed in order to serve some important and specific purpose connected with the completion of the inquiry and that when an accused person is remanded to police custody the period of remand should be as short as possible.

33. Inter alia, the respondents have submitted that the prayer made by the CBI seeking extension of police custody remand is only in the hope of extracting some admission of guilt from the accused persons which is contrary to the spirit of the law enshrined in Article 20 (3) of the Constitution of India. Inter alia, it was submitted on behalf of the respondents through the replies submitted on behalf of the respondent No.2, 5 and 4 that there was no ground to vary the impugned order



dated 23.6.2022 of the learned Vacation Judge, CBI as it was a well reasoned order.

34. Inter alia, it was submitted on behalf of the respondents that interrogation of the accused persons and confrontation of documents and electronic evidence to the accused persons by the CBI can certainly be made even when the accused are in judicial custody. Furthermore, it was submitted on behalf of the respondent that in terms of the verdict of the Hon'ble Supreme Court in ***Paramvir Singh Saini v. Baljeet Singh and Others***: (2021) 1 SCC 184 CCTV cameras have been directed to be placed at the places of interrogation mandatorily and thus the same would itself indicate the investigation and interrogation that has been conducted by the CBI.

35. The respondents also submit that the CBI has been granted ample opportunities to interrogate and confront the respondents with each other to seek their explanations on the documents which were recovered during the investigation whilst they were in police custody in the first instance and they were arrested i.e. qua respondent Nos. 1, 2, 3 and 5 and that the CBI has already seized the mobile phones and laptops and no further recovery is to be effected and that the trap proceedings have already been concluded.

36. As regards the evidence qua intercepted telephonic conversations, it has been submitted on behalf of the respondents that the application seeking voice samples of the accused persons is pending disposal before the learned Special Judge RADC, New Delhi.



37. Inter alia on behalf of the respondent No.4 it was urged that the allegations against the respondent no.4 are wholly erroneous and as regards the allegations against the respondent No.1, that 'data' was changed to 'protocol', the same is baseless in as much as the drugs approved outside India which had suffered clinical trials in view of Para 8.3.1. Under Similar Biologics Guidelines 2016 , need not suffer clinical trial again and again in India and thus there is an exemption of Phase-III and this exemption is on the basis that no clinical trial 'data' is required to be provided for such an already approved drug.

38. On behalf of the respondent No.4 it is further urged that the medicine in question has already been launched by the BBL and has undergone Phase I trial in Germany and Phase II trial in USA and the drug had been granted marketing authorization by EMA and Health Canada and thus it was a case of a launch of an approved drug and only protocol had to be provided and there was no question of change of the word 'data' to 'protocol'.

39. On a consideration of the submissions that have been made on behalf of either side as it is sought to be brought forth by the CBI that it requires the custody of all the accused persons for the purposes of interrogation of accused persons and confrontation of the accused persons *inter se*, as well as in relation to intercepted calls taking into account with the factum that respondent No.1, Dr.S.Eswara Reddy, respondent No.2 Gujit Sethi @ Guljit Choudhri, respondent No.3 Dinesh Dua and the respondent No.5 Animesh Kumar have already remained in police custody for a day and, taking into account the



orders dated 21.6.2022 and 23.6.2022 of the learned Special Judge, P.C.Act (CBI), RADC, New Delhi, it is apparent that as rightly observed vide the impugned order dated 23.6.2022 ample opportunities had been granted to the CBI to conduct the interrogation of the accused Nos. 1,2 3 and 5, respondents No.1, Dr.S.Eswara Reddy, respondent No.2 Gujit Sethi @ Guljit Choudhri, respondent No.3 Dinesh Dua and the respondent No.5 Animesh Kumar and as it is still open to the CBI to conduct further interrogation of the said accused persons and confront them with documents as well as the electronic devices even during their being incarcerated in judicial custody after moving and seeking such permission from the Magistrate concerned, thus the prayer made by the CBI seeking the grant of further police custody remand qua the accused persons, i.e, respondent No.1, Dr.S.Eswara Reddy, respondent No.2 Gujit Sethi @ Guljit Choudhri, respondent No.3 Dinesh Dua and the respondent No.5 Animesh Kumar is rejected.

40. As regards the respondent no.4, L Praveen Kumar, however the fact that the said accused was produced before the Court on 22.6.2022 after having been brought on transit remand in the night of 21.6.2022 on which date he was remanded to judicial custody at 5:45 p.m. with there being direction vide order dated 22.6.2022 of the learned Special Judge, P.C. Act (CBI), that all the accused persons be produced before the Court at 11 a.m. it is apparent that the observations made vide the impugned order dated 23.6.2022 that the CBI had ample opportunity to interrogate the respondent No.4 cannot be accepted.



NEUTRAL CITATION NO: 2022/DHC/002411

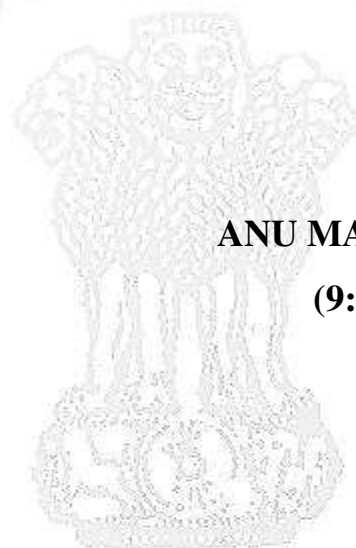
41. In these circumstances, the Superintendent Jail, Delhi is directed to hand over the custody of the respondent No.4 L Praveen Kumar to the Investigating Officer of the case RC No.0032022A0037 till the date 6.7.2022 on which date the Investigating Officer shall ensure the production of the respondent no.4 before the competent Court concerned by 12 p.m on 6.7.2022 whereafter the competent Court concerned shall pass appropriate orders in accordance with law and a copy be also supplied to the Investigating Officer of the case.

ANU MALHOTRA, J.

(9:15 P.M.)

JULY 4, 2022

Sv/NC



सत्यमेव जयते