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

+ **TR.P.(CRL.) 32/2024**

**ASHISH KUMAR**

..... Petitioner

Through: Mr. Adarsh Priyadarshi and Mr.  
Apoorv Shankar, Advocates.

versus

**CENTRAL BUREAU OF INVESTIGATION & ORS.**

..... Respondents

Through: Mr. Rajesh Kumar, SPP for CBI.  
Mr. Ajay Burman, Senior Advocate with Ms.  
Ruchi Kapur and Mr. Varun Seth, Advocates for  
R-2.

**CORAM:**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**ORDER**

**22.04.2024**

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**CRL.M.A.9493/2024 (Exemption)**

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. This petition has been filed on behalf of the Petitioner under Section 407 Cr.P.C. read with Section 482 Cr.P.C. seeking transfer of case titled ***CBI v. Sumedh Singh Saini and Ors.***, in ***SC No. 02/2019 (RC No.2(S)/1994/CBI/SIC-V/SIC-II)*** from the Court of Ms. Sunena Sharma, learned Special Judge, PC Act (CBI-20), Rouse Avenue District Court, to the Court of Sh. Naresh Kumar Laka, learned Additional District Judge-07, Central, Tis Hazari Courts, on the ground that the matter was heard at length on

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various dates of hearing by Sh. Laka and was at the stage of final arguments before he was transferred on 19.03.2024 by way of routine transfer.

4. Present petition has its genesis in an FIR registered by CBI on 18.04.1994 under Section 120B IPC read with Sections 342/365 IPC. Charge sheet was filed against Respondents No. 2 to 5 herein on 30.06.2000 under Section 120B IPC read with Sections 342/343/364 IPC. On a transfer petition being filed by the mother of the Petitioner, the Supreme Court vide order dated 15.10.2004 transferred the trial from the Court of Special Judge, Ambala to Court of Sessions Judge, Delhi. Charges were framed on 06.12.2006. On 29.09.2010 and 09.09.2011, the learned Trial Court directed recording of evidence on day-to-day basis.

5. According to the Petitioner, the Trial Court on 02.03.2024 fixed short dates for final hearing after closing the defence evidence noting that it was an old case. Thereafter, part arguments were heard between 11.03.2024 to 18.03.2024, but the learned Judge was transferred on 19.03.2024.

6. Arguments raised on behalf of the Petitioner in support of his plea to transfer the case are: (a) present case is one of the oldest cases pending before the Trial Court and looking at the prolonged trial, evidence was recorded on day-to-day basis and arguments were being heard on short dates; (b) Sh. Laka, learned Judge was in the midst of hearing final arguments in March, 2024; (c) entire defence evidence was recorded by the learned Judge and therefore, he has seen the demeanour of witnesses; (d) Statements of Accused under Section 313 Cr.P.C. were also recorded in his tenure; and (e) the Judge had the benefit of going through the voluminous record, running into thousands of pages. It is further urged that the Judicial Officer, who has taken over, will have to re-hear the matter and



since the Court is already overburdened with CBI matters, conclusion of the case will be further delayed. Learned counsel submits that as a delay tactic, Respondent No. 2/accused filed a second application under Section 311 Cr.P.C. for recall of PW-9 for cross-examination. Application was allowed by the Court and matter was fixed for cross-examination but the Court continued to hear final arguments on behalf of the CBI and thus, being a part heard matter, even otherwise, it is proper that matter is transferred to the Court of Sh. Laka for conclusion of arguments and pronouncement of judgment. Reliance is placed by the learned counsel on the judgments in *Dharamvir v. State, 1985 SCC OnLine Del 164; S.J. Chaudhri [(Lt. Col. (Retd.))] v. State, 2006 SCC OnLine Del 797; Karan v. State NCT of Delhi, Crl. Appeal No.352/2020*, decided on 27.11.2020, to support his plea.

7. On the other hand, learned Senior counsel for Respondent No.2 submits that matter cannot be transferred merely on the ground that the Judicial Officer has been transferred. As per administrative instructions, only where the case is reserved for judgment, the Judicial Officer under transfer shall notify the cases in which judgment/order was reserved and shall pronounce the same on the date fixed or within a maximum period of two to three weeks thereof. Even otherwise, it is incorrect to state that the matter was at the stage of final arguments, since cross-examination of PW-9 by accused No.4 is yet to conclude. Moreover, Sh. Laka has been transferred on routine transfer as Additional District Judge, Central, Tis Hazari Court, which is a different jurisdiction and the Court is not dealing with the CBI cases, for which there are designated Courts with Special Judges.

8. Heard.



9. By this petition, transfer of case titled ***CBI v. Sumedh Singh Saini and Ors.***, in ***SC No. 02/2019 (RC No.2(S)/1994/CBI/SIC-V/SIC-II)*** is sought to the Court of Sh. Laka on the ground that prior to his routine transfer, the learned Judge was hearing final arguments in the matter and being one of the oldest cases, there is a need for expeditious disposal.

10. I have perused the order sheets on record, which indicate that final arguments were being heard by Sh. Laka but at the same time, on a recall application by accused No.4, PW-9 was recalled and cross-examination is yet to conclude. Therefore, it is not wholly correct for the Petitioner to urge that the matter is on the verge of conclusion. Sh. Laka was transferred vide Transfer Order dated 19.03.2024 bearing No. 10/D3/Gaz.-IA/DHC/2024 and in consonance with the administrative decision of this Court, following note was annotated at the end of the order:

*“2. The judicial officers under transfer shall notify the cases in which they had reserved judgments/orders before relinquishing the charge of the court in terms of the posting/transfer order. The judicial officers shall pronounce judgments/orders in all such matters on the date fixed or maximum within a period of 2-3 weeks thereof, notwithstanding the posting/transfer. Date of pronouncement shall be notified in the cause list of the court to which the matter pertains as also of the court to which the judicial officer has been transferred and on the website.”*

11. Perusal of the aforesaid Note reflects that the transfer order contemplates that Judicial Officers under transfer shall notify the cases in which they have reserved judgments/orders before relinquishing the charge of the Court and shall pronounce judgments/orders in all such matters on the date fixed or maximum within 2-3 weeks thereof. There is no provision for transfer of all or any matter with the transfer of the Judge to his next Court. In the present case, learned Judge had only heard part arguments and cross-examination of PW-9 is yet to be concluded. It may also be noted that being



a CBI matter Special Judge (PC Act) (CBI), Rouse Avenue Courts, is designated to hear these matters and Sh. Laka is currently posted as ADJ-07, Central, Tis Hazari Courts. In the opinion of this Court, no ground for transfer is made out. This Court is fortified in its view by judgment of this Court in ***Mohd. Zafar v. State, 2020 SCC OnLine Del 360***.

12. Reliance by the counsel for the Petitioner on the aforementioned judgments is misconceived. In ***Karan (supra)***, the facts were entirely different. Reading of paragraph 4 of the judgment of the Full Bench indicates that the learned Sessions Judge had heard final arguments whereupon the judgment was reserved and the matter was listed for orders. In ***S.J. Choudhri (supra)***, the facts were converse wherein a petition was filed by the accused seeking a transfer of case being RC No. 3/83 under Section 302 IPC from the Court of ASJ, Tis Hazari Courts to the Court of Patiala House Courts. The Court declined the prayer on the ground that re-transfer of the case to a Sessions Judge who will hear arguments from the scratch would obstruct the course of justice. The short order passed in ***Dharamvir (supra)***, does not help the Petitioner as it was in different facts and did not deal with the administrative instructions as aforementioned, which provide that only cases in which judgment/orders are reserved will be notified by the Judicial Officers, before relinquishing the charge on transfer/posting.

13. In view of the above discussion, this Court finds no ground for transferring case titled ***CBI v. Sumedh Singh Saini and Ors.***, in ***SC No. 02/2019 (RC No.2(S)/1994/CBI/SIC-V/SIC-II)*** from the Court of Ms. Sunena Sharma, learned Special Judge, PC Act (CBI-20), Rouse Avenue District Court to the Court of Sh. Naresh Kumar Laka, learned Additional



District Judge-07, Central, Tis Hazari Courts.

14. This Court is sanguine that the learned Special Judge dealing with the present case will be equally sensitive to the long pendency of the trial and shall make every endeavour to conclude the trial as expeditiously as possible. Learned Special Judge is requested to ensure that no unnecessary adjournments are granted in the matter.

15. Petition is disposed of in the aforesaid terms.

**JYOTI SINGH, J**

**APRIL 22, 2024/DU/Shivam/BSR**