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

+ **BAIL APPLN. 3366/2021**

ANAND DILIP DAGA ..... Petitioner

Through : Mr.Mohit Mathur, Senior Advocate  
with Mr.Tanveer Ahmed Mir,  
Mr.Vaibhav Suri Mr. Kartik Venu,  
Mr. Vinayak Chitale and Mr.Deepak  
Goel, Advocates.

versus

CENTRAL BUREAU OF INVESTIGATION ..... Respondent

Through : Mr.Nikhil Goel and Mr.Vinay  
Mathew, Advocates.

+ **BAIL APPLN. 3421/2021, CRL.M.A.14685/2021**

ABHISHEK TIWARI SUB INSPECTOR,  
CBI, AC V, NEW DELHI ..... Petitioner

Through : Mr.Siddharth Dave, Senior Advocate  
with Mr.Abdesch Chaudhary and  
Mr.Meenesh Dubey, Advocates.

versus

CENTRAL BUREAU OF INVESTIGATION  
THROUGH ITS DY SUPDT OF POLICE ..... Respondent

Through : Mr.Nikhil Goel and Mr.Vinay  
Mathew, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE YOGESH KHANNA**

**ORDER**

% **12.10.2021**

1. The hearing has been conducted through Video Conferencing.
2. Both these petitions are taken up together.
3. The allegations against the present applicants are a preliminary enquiry was registered on 06.04.2021 in compliance of an order dated 05.04.2021 passed by the High Court of Bombay. A team of officers including the applicant Abhishek Tiwari left to Bombay on 06.04.2021 for conducting an inquiry in the said FIR. They examined many witnesses,

including Sh.Anil Deshmukh, the then Home Minister of Maharashtra and consequent upon an inquiry the Enquiry Officer submitted its report dated 16.04.2021. The allegations are Abhishek Tiwari was assisting the Enquiry Officer in preparation of the said report and was in possession of sensitive documents. However the copies of confidential documents pertaining to the enquiry and investigation has been disclosed by the applicant Abhishek Tiwari to the another applicant namely Anand Dilip Daga and also to unknown/unauthorised person. The allegations are on 28.06.2021 Abhishek Tiwari visited Pune in connection with the investigation of the said FIR where co-accused Anand Dilip Daga met him and handed over an I-phone 12 Pro as illegal gratification to him in lieu of passing details regarding the said enquiry and the investigation, thereby causing improper performance of public duty. It is alleged Abhishek Tiwari shared copies of different documents like memorandum of proceedings, sealing-unsealing memorandum, statements, seizure memos etc. related to the investigation of the said case with the present petitioner through whatsapp on many occasions.

4. It is the case of the prosecution Abhishek Tiwari was entrusted with the possession of case sensitive documents as part of the enquiry and the investigation of RC2232021A0003 in his capacity as a Sub-Inspector of the branch, has committed breach of trust.

5. It is the submission of the learned senior counsels for the petitioners only four days remand of the present accused persons was given and thereafter the learned Trial Court refused further remand and that the petitioners are in custody for 40 days and CBI did not even file an application for interviewing them, hence are not required for further

investigation and hence they be granted bail.

6. However, the learned counsel for the CBI submit the offences committed by the petitioners are serious in nature and no investigation can proceed if lawyer of the accused and the Investigating Officer join hand to benefit someone. It is the case of the CBI, number of documents were exchanged with Anand Dilip Daga clearly show they were to the benefit of accused in RC2232021A0003. It is further alleged the information qua a raid to be conducted on 27.07.2021 upon the accused of RC2232021A0003 reached to the accused on 14.07.2021 which led to a serious impact on the investigation. The allegations are also of deletion of data from the mobile phone of applicants.

7. The recovered documents and its implication thereof is stated in the case diary, a copy of which has been handed over to this Court.

8. It is alleged both the petitioners held various meetings at Delhi, Pune and Mumbai and were in regular touch and on the intervening night of 26-27<sup>th</sup> July, 2021 they met each other at HAL Guest House, Pune. It is alleged there are enough call detail records which show common location at the same time of both the accused person.

9. The investigation is still at its initial stage and it is alleged the petitioners shall influence the investigation and temper with the evidence and shall stall the proceedings, if they allowed to be released on bail at this stage.

10. The learned counsel for the CBI submitted as follows:

*“(a) The data collected so far shows that even though the Police Remand period is over, both the accused have information which the CBI is trying to collect by confronting them with the facts, as are discovered on regular basis during the course of investigation. In this nature of investigation, direct evidence is seldom available and therefore, at least for a period of*

*90 days from arrest, CBI should be given a fair opportunity to file its charge sheet which would show the actual gravity of offence. If CBI fails in filing Charge Sheet, S.167 will automatically come in;*

*(b) The CBI believes that as the accused are being confronted with more and more data, their chances of giving out truth is extremely high and therefore, their release at this stage will be counter-productive to the investigation.”*

11. It is settled law the Court has to keep in mind not only the nature of accusations but also if there exist reasonable apprehension of the evidence being tempered with, then the bail may be refused.

12. The allegation in the present FIR is rather based on tempering of the evidence; thus considering the initial stage of investigation, I am not inclined to grant bail to the petitioners herein, at this stage.

13. The petition(s) stands dismissed. Pending application(s), if any, also stands disposed of.

**YOGESH KHANNA, J.**

**OCTOBER 12, 2021**

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