

\$~1

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

+ CRL.A. 53/2020  
CRL.M.A.2094/2023  
CRL.M.A.2095/2023

**KULDEEP SINGH SENGAR** ..... Appellant  
Represented by: Mr.N.Hariharan, Sr. Advocate and  
Mr.Pramod Kumar Dubey, Sr.  
Advocate with Mr.S.P.M.Tripathi,  
Mr.Kanhaiya Singhal and  
Mr.Vaibhav Sharma, Advocates.

versus

**CENTRAL BUREAU OF INVESTIGATION** ..... Respondent  
Represented by: Mr.Nikhil Goel, Special P.P. (through  
video conferencing) with Mr.Kartik  
Kaushal, Advocate for CBI.  
Mr.Mehmood Pracha, Advocate with  
Mr.Sanawar Choudhary, Mr.Jatin  
Bhatt, Mr.Harshit Gahlot, Mr.Dhruv  
Yadav and Mr.Aayushman Agarwal,  
Advocates for the complainant with  
complainant in person.

**CORAM:**  
**HON'BLE MS. JUSTICE MUKTA GUPTA**  
**HON'BLE MS. JUSTICE POONAM A. BAMBA**

**ORDER**  
**27.01.2023**

%

CRL.M.A.2094/2023 (recalling of order dt.16.1.2023-by complainant)  
CRL.M.A.2095/2023 (for stay-by complainant)

1. By these applications, the complainant seeks modification/recalling of the order dated 16<sup>th</sup> January 2023 as also the stay thereof.

2. When these applications came up before this Court on 25<sup>th</sup> January 2023, after hearing learned counsel for the applicant and learned Special P.P. for the CBI, this Court issued notice to learned counsel for the appellant, returnable for today. At the outset, learned counsel for the appellant, on instructions, states that since this Court had directed the appellant to be released on 27<sup>th</sup> January 2023, the appellant has been released today and he is presently on his way to Lucknow to mark his presence to SI Sanjay Tyagi, CBI in terms of the order of this Court dated 16<sup>th</sup> January 2023.

3. The main argument of the learned counsel for the applicant/complainant seeking modification/recalling of the order dated 16<sup>th</sup> January 2023 is that an affidavit has been submitted by the Special Secretary, Home Department, Govt. of Uttar Pradesh dated 15<sup>th</sup> November 2022 in compliance of the order of the Hon'ble Supreme Court dated 31<sup>st</sup> October 2022. In the said affidavit, it is noted that the Home Department of Govt. of Uttar Pradesh has undertaken an assessment of the threat perception qua the victim, her mother, sisters, brother, cousin brother, cousin sister, uncle and the learned counsels. As per the said affidavit, it is stated that there may be some threat perception only to the victim and her immediate family members mentioned at serial Nos. 1 to 8 of the said tabulation in the affidavit, however, there was no threat perception to any other persons including the four learned counsels. Grievance of the complainant is that when the reply was filed by the CBI, this affidavit of the latest threat perception was not filed.

4. Learned counsel for the CBI states that this affidavit was not to the knowledge of the CBI and he came to know about the same when the

application was filed and thus, a status report is being handed to this Court today as per which, even the CBI prays that this Court may reconsider and recall the order dated 16<sup>th</sup> January 2023. The status report handed over today physically will be e-filed by the learned Special P.P. for the CBI in the course of the day so that the same is placed on record.

5. Having gone through the affidavit dated 15<sup>th</sup> November 2022, it is evident that the victim and her immediate family members have been provided with security from the Central Forces and not from any local police either of Uttar Pradesh or Delhi. The affidavit thus implies that based on the said threat perception, there is a continued requirement of security forces. While passing the order dated 16<sup>th</sup> January 2023, having heard all the parties, this Court granted interim suspension of sentence to the appellant in view of the verification report submitted by the CBI regarding the marriage of the appellant's daughter. It may be noted that there are two main functions i.e. firstly, Tilak ceremony on 30<sup>th</sup> January 2023 which is to be performed at Gorakhpur and the wedding on 8<sup>th</sup> February 2023 which is to be performed at Lucknow.

6. Learned Senior Counsel for the appellant states that there is no cogent cause for modification of the order dated 16<sup>th</sup> January 2023 and in any case, the prayer made in the applications, is for provision of permanent police detail with the appellant during the period of his interim suspension of sentence and not withdrawing the interim suspension of sentence. Learned Senior Counsel for the appellant states that since the trial is complete, there is no threat to the witnesses.

7. Learned counsel for the CBI states that IO SI Sanjay Tyagi, CBI is on medical leave and hence, the reporting will be done by the appellant to

Inspector Ganesh Shanker (Mobile No. 9198920631).

8. We may note that the appellant has already filed an application for leading additional evidence, hence the plea that there can be no threat to the witnesses cannot be accepted. Having heard learned counsels for the parties, though this Court finds that a custody parole for such a long period and requiring employing number of police personnel would not be feasible, however, due to the gap available in the Tilak ceremony and the wedding, we modify the order dated 16<sup>th</sup> January 2023 to the extent that, the appellant having been released today, he will surrender to custody on 1<sup>st</sup> February 2023, whereafter, on the same terms and conditions, he will be released in the morning of 6<sup>th</sup> February 2023 so as to enable him to attend wedding of his daughter, from which, he would surrender on 10<sup>th</sup> February 2023. All the other conditions noted in the order dated 16<sup>th</sup> January 2023 will remain same and shall be scrupulously followed, except that the everyday reporting will now be to Inspector Ganesh Shanker.

9. Applications are disposed of.

10. Order be uploaded on the website of this Court and be also communicated to the Superintendent Jail for information forthwith.

**MUKTA GUPTA, J.**

**POONAM A. BAMBA, J.**

**JANUARY 27, 2023/akb**