

**I.A. No. CAN/1/2021
With
I.A. No. CAN/2/2021
With
I.A. No. CAN/3/2021
With
I.A. No. CAN/4/2021
With
I.A. No. CAN/5/2021
In
WPA 10504 of 2021**

**CBI ACB Kolkata
Vs.
Shri Firhad Hakim @ Bobby Hakim & Ors.**

**BEFORE: HON'BLE JUSTICE RAJESH BINDAL,
CHIEF JUSTICE (ACTING)
AND
HON'BLE JUSTICE ARIJIT BANERJEE**

Mr. Tushar Mehta, Solicitor General of India
Mr. Y.J. Dastoor, Additional Solicitor General of India,
Mr. S.V. Raju, Addl. Solicitor General of India,
Mr. Phiroze Edulji,
Mr. Kanu Agarwal,
Mr. Samrat Goswami, Advocate
...for the petitioner and Applicants in CAN 5 through V.C.

Dr. Abhishek Manu Singhvi, Senior Advocate
Mr. Kalyan Bandopadhyay, Senior Advocate
Mr. Sabyasachi Banerjee,
Mr. Sandip Dasgupta,
Mr. Niladri Bhattacharya,
Mr. Soham Bandyopadhyay,
Mr. Ayan Kumar De,
Mr. Sourav Chatterjee,
Mr. Soumya Nag,
Mr. Suhaan Mukherjee,
Mr. Kunal Vajani,
Mr. Gopal Chandra Halder,
Mr. Ajay Agarwal,
Ms. Mahima Cholera
... for the applicants in CAN Nos.1,3 & 4
through V.C.

Mr. Siddharth Luthra, Senior Advocate
Mr. Debayan Sen,

Mr. Sourav Chatterjee,
Mr. Pratim Priya Dasgupta,
Mr. Sompriyo Chaudhuri
... for the respondent in CAN No.2 of 2021
through V.C.

Mr. Kishore Dutta, Advocate General,
Mr. Abhratosh Majumder, Addl. Advocate General,
Mr. Sayan Sinha,
...for the State through V.C.

Dated: May 21, 2021

The Court:

1. Keeping in view importance of the issues involved in the matter, as noticed in various orders passed by this court, we find that it would be appropriate if the entire matter is heard by a larger bench. For that let the papers be placed before Hon'ble the Chief Justice (Acting) for constitution of an appropriate bench.

2. As far as interim relief is concerned, while modifying the earlier order dated May 17, 2021, we direct that considering the age and health issues of the accused, three of whom are said to be admitted in hospital, instead of custody in jail, all the accused persons can be put under house arrest in their own homes. This court finds that the guidance in this regard given by Hon'ble the Supreme Court in **Criminal Appeal No. 510 of 2021, decided on May 12, 2021** in case titled as **Gautam Navlakha vs. National Investigation Agency**, are fully applicable in these cases. During their house arrest, while being in home comfort, they shall be entitled to all medical facilities and shall be bound by all applicable restrictions, however, it shall be the duty of the jail authorities in the State to enforce the conditions. Any violation thereof can result in recall of this order.

[Rajesh Bindal, CJ(A)]

[Arijit Banerjee, J.]

1. After the aforesaid order was announced in Court, learned Counsels for the accused requested for early constitution of the Bench. They also requested that some of the

accused are holding high positions and are managing the Covid-19 pandemic in the State. They may be allowed to discharge their official functions for which the Government Officers may be allowed access to them.

2. Mr. Tushar Mehta, learned Solicitor General of India prayed for stay of the order passed today for one week to enable the CBI to avail of its appropriate remedy.

3. Considering the age and health of the accused and the reasons which we have assigned in the earlier orders passed, we do not find any reason to stay the operation of the order as the accused persons still remain in judicial custody though only the manner has changed.

4. As far as the prayer of the accused for allowing them to discharge their official functions to manage Covid-19 in the State, we direct that the officials will not have any direct access to the accused, however, they are permitted to deal with the files sent to them online and hold meetings through video conferencing. A complete log of all video conferencing along with the details of the persons with whom it was held and the purpose therefor, shall be maintained. The video conferencing facility shall not be used for any other purpose. Further complete record of any person visiting the house of the accused at his residence shall be maintained along with its duration and the purpose. The jail authorities shall install, if not already there, CCTV cameras at the entry point of the houses in which the accused persons will remain and the recording thereof shall be kept for record to ascertain the persons who visit the accused. Any lapse in this regard shall be seriously viewed.

5. All concerned including the jail authorities to act on the basis of the server copy uploaded on the website of this Court.

[Rajesh Bindal, CJ(A)]

[Arijit Banerjee, J.]