

**IN THE COURT OF SH. M. K. NAGPAL  
SPECIAL JUDGE (PC ACT), CBI-09 (MPs/MLAs CASES)  
ROUSE AVENUE DISTRICT COURT, NEW DELHI**

**CBI/56/2022**

**CNR No.DLCT11-000733-2022**

**FIR No.RC0032022A0053**

**PS CBI, ACB, New Delhi**

**U/S 120B R/W 477A IPC & SEC 7 of the PC Act, 1988 (as amended in 2018)**

**CBI Vs. Kuldeep Singh & Ors.**

**27.02.2023**

Present: Sh. Pankaj Gupta and Sh. Praneet Sharma, Ld. SPPs for CBI along with Sh. Mohd. Shakeel and Sh. Raj Mohan Chand, Ld. DLAs, SP Sh. Shubhendra Katta, IO/ASP Sh. Rajiv Kumar and Assistant IO/DSP Sh. Alok Kumar Shahi, CBI, ACB, New Delhi.

Applicant/accused Manish Sisodia produced from police/CBI custody.

Mr. Mohit Mathur, Mr. Dayan Krishnan, Mr. Siddharth Aggarwal, Ld. Senior Counsels, assisted by Mr. Vivek Jain, Mr. Rishikesh Kumar, Mr. Mohd. Irshad, Mr. Karan Sharma, Mr. Mohit Siwach, Mr. Rohit Kaliyar, Mr. Rajneesh, Mr. Harsh Gautam, Mr. Sumit Mishra, Mr. Rishabh Sharma, Mr. Saujanya Shankaran, Mr. Deepal Goel and Ms. Divita Dutta, Ld. Counsels for the applicant/accused.

1. Accused Manish Sisodia has been produced in CBI/police custody today by the IO/DSP Sh. Alok Kumar Shahi, after having been arrested in this case on 26.02.2023. Vakalatnama on behalf of the accused has been filed.

2. An application has been moved by the IO seeking CBI custody of the accused for a period of 05 days. Contents of the application, as well as of the case file produced by IO have been perused and the submissions made by Sh. Pankaj Gupta, Ld. Senior PP for CBI and Mr. Dayan Krishnan, Mr. Mohit Mathur and Mr. Siddharth Aggarwal, Ld. Senior Counsels representing the accused have been heard and considered.

3. The instant case was registered by CBI vide FIR/RC No. RC0032022A0053 on 17.08.2022 under Section 120B IPC and Section 7 of the PC Act, 1988 and substantive offences thereof against total 15 persons specifically named in the FIR, including the above accused Manish Sisodia who was the Deputy Chief Minister as well as Excise Minister of the Govt. of NCT of Delhi (GNCTD). Some other public servants and public persons were also specifically named in the FIR and the case has been registered on allegations of commission of various irregularities in framing and implementation of the Excise Policy of GNCTD for the year 2021-22. It has been alleged in the FIR that the above public servants were instrumental in recommending and taking decisions pertaining to above Excise Policy without approval of the competent authority and also with an intent to extend undue favours to the licensees post tender for some illegal pecuniary benefits.

4. One chargesheet in the case has already been filed by the CBI before this Court against total seven persons who have been named as accused in the said chargesheet, though further investigations on certain aspects with

regard to role of the other accused persons and to trace out the trail of ill-gotten money involved in the case was still kept pending. Cognizance has also been taken by this Court against the above said chargesheeted accused and only two out of above seven accused i.e. accused Vijay Nair and accused Abhishek Boinpally were arrested and chargesheet against the remaining five accused was filed without their arrest. Even both the above arrested accused were subsequently directed to be released on bail by this Court, though they could not be actually released from custody because of their arrest in the connected case/ECIR registered by the ED vide No. ECIR/HIU-II/14/2022.

5. The investigation conducted in this case so far is alleged to have revealed that the above accused Manish Sisodia has played an active role in commission of the alleged offences as he being a Member of the Group of Ministers as well as the Excise Minister had manipulated certain changes in the cabinet note, which was prepared on draft policy and was put up along with the expert committee report and the comments taken and opinions received from the general public and stakeholders, with some ulterior motives and designs and to help some stakeholders of the excise policy in achieving the illegal objective of cartelization and monopoly in the sale of liquor in Delhi during the above year. It was alleged that it was done because of advance kickbacks of around Rs. 90-100 crores paid by the South liquor lobby to the co-accused Vijay Nair. Some specific oral as well as documentary evidence to this effect is stated to have surfaced during investigation conducted so far to substantiate the above allegations, and also the allegations of destruction of some evidence being levelled

against him, and it is stated though the accused was earlier made to join investigation of this case on two occasions on notices U/s 41A CrPC issued to him for this purpose, but it became necessary to arrest him in the case as he was not cooperating in investigation and did not disclose the true facts related to the above conspiracy, the role of other accused persons including public servants, as well as the trail of the illgotten money received through hawala channels. It has been submitted that he was giving evasive replies to the questions put to him and not giving correct answers and denied the facts, which were exclusively in his personal knowledge. It is also stated by Ld. SPP for CBI that the grounds for arrest and custodial interrogation of accused as stated in remand application supplement the grounds of his arrest as reflected in his arrest memo and CBI custody of accused is essential for eliciting more useful information from him, as held in the case of **State Vs. Anil Sharma (1997) 7 Supreme Court Cases 187**, in view of the facts stated and allegations made in the application.

6. Per contra, Ld. Senior Counsels representing the accused have vehemently opposed the above request of CBI on the ground that very arrest of accused has been effected in contravention and violation of the provisions contained U/S 41 and 41A Cr.P.C. and also the directions given by the Hon'ble Supreme Court in case of **Arnesh Kumar Vs. State of Bihar and another (2014) 8 Supreme Court Cases 273** and hence, the question of grant of CBI custody of accused does not arise at all. It is also their contention that as directed by the Hon'ble Supreme Court in case of **Arnesh Kumar (Supra)**, it is duty of the Court to see that the above procedure and directions are applied and complied with by the

investigating agencies and no arrest of an accused is effected unless the same becomes utmost necessary and no police or CBI remand of such an accused should be granted for the reasons and purposes as mentioned in the application and also the grounds of arrest of accused as stated in his arrest memo. Ld. Senior Counsels representing the accused have also referred to the judgments in cases **Satyajit Ballubhai Desai and others Vs. State of Gujarat, (2014) 14 Supreme Court Cases 434, Satender Kumar Antil Vs. Central Bureau of Investigation and another, (2022) 10 Supreme Court Cases 51** and **Chanda Deepak Kochhar Vs. Central Bureau of Investigation 2023 SCC Online Bom 72.**

7. It is also the contention of Ld. Senior Counsels that the accused cannot be remanded to CBI custody merely for the purposes of recording his confessional statements as he has a right against self incrimination as guaranteed by Article 20(3) of the Constitution, which provides or acts as an essential safeguard in criminal procedure against the torture and other coercive methods used by the investigating agencies. It is also their contention that as held in the case of **Manubhai Ratilal Patel Vs. State of Gujarat and others, (2013) 1 Supreme Court Cases 314**, the order of sending an accused to custody is a judicial order or function of the court and the court has to satisfy itself that reasonable grounds and materials exist for remanding the accused to custody. The provisions of Delhi High Court Rules and CBI Manual have also been referred to by Ld. Senior Counsels in support of their contention that the grant of CBI custody of the accused is not legal and even the arrest of the accused in the given facts and circumstances of the case cannot be justified. It is further the

submission of Ld. Senior Counsels for the accused that the mere non-cooperation on part of the accused or the non disclosure of the facts as per the desires of the IO cannot be a ground to justify the arrest or remand of the accused to CBI custody. The judgment in case of **K. K. Girdhar Vs. M. S. Kathuria, Cr. M (M) No. 458 of 1988** has also been referred to and relied upon by Ld. Senior Counsels in support of their submissions that the above request made by the CBI should not be allowed.

8. It is also the contention of Ld. Senior Counsels for the accused that the allegations of manipulation in excise policy being made against the accused are totally false as the excise policy subsequently got approval of the Hon'ble Lt. Governor of GNCTD and the same being an act of the Council of Ministers and the Govt. cannot be challenged in court.

9. Rebutting the above submissions, the judgment in case of **P. Chidambaram Vs. Directorate of Enforcement, Criminal Appeal No. 1340 of 2019** is also cited and relied upon by Ld. SPP for CBI in support of the request for CBI custody of accused and while submitting that as held in the above case, this Court cannot substitute its views by conducting a mini trial by way of scrutinizing the questions put to the accused and the answers given by him to the IO during the course of investigation conducted so far as it is purely the role of investigating agency to conduct the investigation.

10. It is not that the directions given by the Hon'ble Supreme Court in the case of **Arnesh Kumar (Supra)** or the provisions contained U/S 41

and 41A of the Cr.P.C. altogether prohibit the investigating agency from arresting an accused and all that is incorporated in the above provisions is that the arrest of an accused should not be made unless and until the arresting officer has reasons to believe on basis of the complaint, information and other materials which have been brought to his notice that such an arrest has become necessary and one of the reasons for which the arresting officer has been given powers to arrest the accused is for proper investigation of the case, as has been provided in clause (b) of sub-section (1) of Section 41 Cr.P.C. Though, it has been observed that the accused had joined the investigation of this case on two earlier occasions, but it has also been observed that he has failed to provide satisfactory answers to most of the questions put to him during his examination and interrogation conducted and has thus, failed to legitimately explain the incriminating evidence which has allegedly surfaced against him in the investigation conducted so far. It is true that he cannot be expected to make self incriminating statements, but the interests of justice and of a fair investigation require that he should come up with some legitimate answers to the questions which are being put to him by the IO. Some of his subordinates are found to have disclosed certain facts which can be taken as incriminating against him and some documentary evidence against him has also already surfaced and a proper and fair investigation requires that some genuine and legitimate answers to the questions being put to him about the same are to be found and hence, in considered opinion of this court, this can only be done during custodial interrogation of the accused in terms of the judgment in case **Anil Sharma (Supra)** being relied upon by Ld. Senior PP for CBI.

11. Therefore, keeping in view the above facts and circumstances, the accused is being remanded to CBI custody for a period of 05 days i.e. till **04.03.2023** for his further and extensive interrogation. As far as the apprehensions being expressed by Ld. Senior Counsels regarding the use of any force or third degree methods in extracting some information from the accused are concerned, this court does not expect the same from the officers of CBI who have been given the task of interrogating the accused holding the high post of Dy. Chief Minister of the GNCTD and also some other important portfolios. In any case such apprehensions can always be taken care of by imposing certain conditions. Hence, it also being directed that the interrogation of accused during this period shall be conducted at some place having CCTV coverage in accordance with guidelines laid down by the Hon'ble Supreme Court and the said footage shall be preserved by the CBI. It is also subject to the condition that he shall be medically examined once in every 48 hours. Further, in terms of provisions contained in Section 41D Cr.P.C., the accused shall also be permitted to meet his Advocates namely Sh. Mohd. Irsad and Sh. Vivek Jain for half an hour daily between 6pm to 7pm during the above period of his CBI custody, in a manner that the CBI officials are not able to hear their conversations. Besides this, the accused shall also be permitted to meet his wife everyday for a duration of 15 minutes during the above said hour. Accused be produced before this court on the said date at **2 pm**. Medicines prescribed to the accused in his MLC dated 27.02.2023 of Safdarjung Hospital are permitted to be given to him.



12. The application stands disposed off accordingly. As prayed for, an e-copy of this order be given to dasti to the parties through Whatsapp/e-mail.

**(M. K. NAGPAL)**  
**Special Judge (PC Act),**  
**CBI-09 (MPs/MLAs Cases),**  
**RADC, New Delhi :27.02.2023**