

AJAY KUMAR KUHAR
Special Judge (PC Act) CBI-09
Court No. 502, Fifth Floor
Rouse Avenue Court Complex
New Delhi

IN THE COURT OF SH. AJAY KUMAR KUHAR, ADDITIONAL
SESSIONS JUDGE / SPECIAL JUDGE (PC ACT), CBI-09,
ROUSE AVENUE COURT COMPLEX, NEW DELHI

ECIR F.No.ECIR/HQ/04/2018 dated 29.8.2018

Assistant Director (PMLA)
Directorate of Enforcement
Headquarter Investigation Unit,
New Delhi

versus

Sh. D. K. Shivakumar
S/o Sh. D. K. Kempegowda
R/o 252, Sadashivnagar,
18th Cross, Bengaluru.

13.9.2019

ORDER

1. This is an application for extension of ED remand of accused D. K. Shivakumar for another five days.
2. The accused was arrested on 03.9.2019 in the present case for commission of the offence under Section 3 of Prevention of Money Laundering Act, 2002 punishable under Section 4 of the Act. On 04.9.2019, he was produced in the court and was remanded to custody of ED till 13.9.2019.
3. He has been produced today in the custody.
4. The learned ASG has submitted that the accused has been

Asstt. Director vs D K Shivakumar
ECIR F.No.ECIR/HQ/04/2018

Page 1 of 4
DL-00036



interrogated from 04.9.2019 till 13.9.2019 except on 12.9.2019. Simultaneously, some more persons have been interrogated who were involved or associated with the ongoing investigation and their statement have been recorded from 05.9.2019 onwards. It is submitted that the accused has to be confronted with the statement of these persons and some more documents have been obtained with which the accused is to be confronted and therefore, his further custody with the ED is required.

5. It is further submitted that the details of number of bank accounts have come into notice of ED through which the tainted money has been diverted. The accused has to be confronted with these bank accounts. It is submitted that the accused was evasive and gives irrelevant answers and take several break during interrogation on the ground of tiredness. Therefore, the remand of the accused in ED custody be extended for five days.

6. The learned counsel for the accused has first of all argued that the accused is not keeping good health which is obvious from his medical record. His blood pressure remains on the higher side. Therefore, a proper medical care is required for the accused. He has referred to the judgment in **Nina Rajan Pillai vs Union of India**, 2011 SCC Online DEL 2252.

7. I have considered the submission of the learned counsel and is of conscious of the fact that health condition of the accused is to be



given a priority and for this appropriate direction will be issued.

8. The learned counsel for the accused has further argued that PC remand cannot be given mechanically and the ED had sufficient time to confront the accused with the persons whose statement have been recorded from 05.9.2019 to 13.9.2019. He submitted that being evasive is the subjective opinion of the investigating officer. The accused is not expected to speak what the IO expect him to speak. He submitted that Article 20 (3) and 21 of the Constitution of India are not mere words. It is further submitted that accused has been subjected to 7 to 8 hours of interrogation everyday despite his health condition. He therefore opposes the extension of five days remand in ED custody.

9. Having considered the submissions of both the parties, at the outset I would say that before the examination of the accused, his medical check-up must be done. In view of his medical record, we cannot take his health for granted. Therefore, the Investigating Officer shall ensure that all due care is taken of his health and whenever required he is taken to hospital for check-up and treatment.

10. Although, PC cannot be claimed and granted mechanically but it is also true that the Investigating Agency has to be given chance for free, fair and full investigation. The pace of interrogation cannot be truncated when some material document and record remains to be put to the accused. Therefore, the remand of the accused to ED custody is



extended till 17.9.2019. Accordingly, it is directed that:-

- i. Accused is remanded to custody of ED till 17.9.2019.
 - ii. The ED shall ensure that the accused is allowed to take all his prescribed medicines in view of his medical condition.
 - iii. The accused shall be examined after every 24 hours or earlier as and when required as per his medical condition.
 - iv. The family members and or the counsel of the accused will be at the liberty to meet him for half an hour daily as per the convenience of the parties.
 - v. The accused shall also be allowed to meet his family doctor namely Dr. Ranga Nathan.
11. Let the accused be produced on 17.9.2019 after his medical examination.
 12. Copy of the order be given dasti to the parties, if so requested.
 13. Application is accordingly disposed off.

Announced in the open court
on 13.9.2019



- Sd/-
(AJAY KUMAR KUHAR)
ASJ/Special Judge (PC Act),
CBI-09, RACC, New Delhi : 13.9.2019 (SR)

AJAY KUMAR KUHAR
Special Judge (PC Act) CBI-09
Rouse Avenue Court Complex
New Delhi