

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

CC No. 53/2022

CNR No. DLCT11-000538-2022

FIR No. RC-09(A)/2016/AC-III/New Delhi

PS AC-III, New Delhi

U/S 120-B of IPC r/w Section 13(2) r/w 13(1)(d) of PC Act, 1988

CBI Vs. Amanatullah Khan & Ors.

**ORDER ON BAIL APPLICATIONS OF ACCUSED NO. 1  
(A-1) AMANATULLAH KHAN, ACCUSED NO. 2 (A-2)  
MAHBOOB ALAM, ACCUSED NO. 3 (A-3) HAMID  
AKHTAR, ACCUSED NO. 4 (A-4) KIFAYATULLAH KHAN,  
ACCUSED No. 5 (A-5) RAFIUSSHAN KHAN, ACCUSED  
NO. 6 (A-6) IMRAN ALI, ACCUSED NO. 7 (A-7) MOHD.  
AHRAR, ACCUSED NO. 8 (A-8) AQIB JAWED, ACCUSED  
NO. 9 (A-9) AZHAR KHAN, ACCUSED NO. 10 (A-10)  
ZAKIR KHAN AND ACCISED NO. 11 (A-11) ABDUL  
MANNAR**

**01.03. 2023**

1. By this order, I shall dispose of applications filed on behalf of all the above accused persons seeking their regular bail under Section 437/439 of the Code of Criminal Procedure, 1973 (Cr.P.C.) in the present case.

2. The contents of their bail applications as well as of the replies thereto filed on behalf of the prosecution/CBI have been perused, along with other record of the case, and arguments advanced by Sh. Pankaj Gupta, Ld SPP for CBI and Sh. Dilshad Ali, Ld. Counsel for A-1 & A-3 to A-10, Sh. Shahryar Khan,

Ld. Counsel for A-2 and Sh. Wajeeh Sahfiq, Ld. Counsel for A-11 have also been heard and considered.

3. Facts of the case, briefly stated, are that the present case was registered by CBI on 23.11.2016 vide FIR bearing no. RC 09(A-)/2016/AC-III, New Delhi under Section 120-B IPC read with Section 13(2) read with 13(1)(d) of the Prevention of Corruption act, 1988 (P.C. Act) against A-1 Amantullah Khan and others on allegations that the said accused, being chairman of the Delhi Wakf Board (DWB), had acted in a corrupt and illegal way in getting appointed A-2 Mahboob Alam as Chief Executive Officer (CEO) of the DWB and then, he also got appointed his relatives and other known persons on various contractual or daily wage posts in DWB, in collusion with and in furtherance of a criminal conspiracy hatched between all of them, and all these appointments were made by misuse and abuse of the official positions of A-1 and A-2 and also without following the due process of law. A-3 to A-11 are some of these appointees and also the beneficiaries of and participants in the above criminal conspiracy, as alleged. It has been alleged that in total, 41 persons were appointed in DWB in different capacities and under different schemes and these include A-2, who had been appointed as CEO of the DWB. It has also been alleged that a loss of Rs. 27,20,494/- has been caused to the Government exchequer in the form of salaries or other emoluments, which had been paid to the above employees or accused.

4. A charge sheet for commission of the offence of criminal conspiracy punishable under Section 120-B IPC read with Section 13(2) read with Section 13(1)(d) of the PC Act (unamended) and also for the substantive offences thereof was filed by the CBI before this court on 31.08.2022 on conclusion of investigation qua the above said accused persons, though it has also been submitted therein that some further investigation under Section 173(8) Cr.P.C. is still pending against some other persons. Since A-1 was elected as a member and also the Chairman of DWB in his capacity as a Member of the Legislative Assembly (MLA) from Okhla Constituency, New Delhi on the ticket of Aam Adami Party (AAP) and was holding a public office at the time of commission of alleged offences, sanction under Section 19 of the PC Act as well as 197 Cr.P.C. for his prosecution in this case was also obtained by CBI and placed on record as a part of the relied upon documents filed with the charge sheet. Similarly, since A-2 was also holding a public office, a sanction for his prosecution was also obtained and filed on record. However, it is necessary to mention here that none of the accused being prosecuted through the above charge sheet was arrested by the CBI during investigation of the case.

5. Vide order dated 03.11.2022, this court had taken cognizance of the above offences alleged in charge sheet against all the accused persons and they all were directed to be summoned to appear before this court and to face trial on charges for the said offences. Then, on their appearance before the court, the present

bail applications had been filed seeking their regular bail in the matter and vide order dated 23.11.2022 of the court, they all were directed to be released on personal bonds in the sum of Rs. 50,000/- each till disposal of their regular bail applications.

6. Sh. Dilshad Ali, Ld. Counsel representing A-1 & A-3 to A-10, has vehemently argued that all the above accused have been falsely implicated in this case for political reasons and the allegations being made against A-1 regarding abuse of his office of the Chairman of DWB are totally false and concocted allegations and all the above appointments have been made by following the correct and legal procedure. It is also his submission that since A-1 was a MLA of the AAP, the present case has been registered by the CBI for some ulterior motives and designs just to harass him and defame his party. It is also submitted that even the other accused being represented by him are poor and innocent persons who were appointed on contractual posts on meagre salaries for a limited duration and they had even worked on the said posts during the given period and they did not demand or obtain any undue benefit or profit out of their above appointments as their salaries were as per the pay structure fixed by the Government. It has also been vehemently argued by him that, admittedly, none of them had paid any amount as bribe to A-1 or A-2 and even A-1 did not demand or accept any bribe from any of the other accused. It is further argued by him that all the above accused had joined investigation of this case as and when they were summoned by the CBI and since none of them was arrested by the CBI during the course of investigation,

their case is squarely covered by the guidelines laid down by the Hon'ble Supreme Court and Hon'ble High Court from time to time and they are entitled to be released on bail in view of the judgments in cases **Court on its Own Motion Vs. CBI (2003) 109 DLT 494** and **Satender Kumar Antil Vs. CBI (2021) 10 SCC 773**.

7. Ld. Counsel Sh. Shahryar Khan, representing A-2 has also vehemently argued that the allegations made against his client regarding the abuse or misuse of his official position or being a member of the alleged criminal conspiracy are totally false and baseless and he has not obtained or demanded any undue benefit out of the above appointments and even no allegation of payment, demand or acceptance etc. of any bribe by him have been made by the prosecution against him. It is also his submission that his client is a retired IPC officer and he superannuated after rendering 33 years of meritorious service and during his service tenure, he had been involved in various sensitive operations and he also held various prestigious posts. It has also been submitted that the entire service career of this accused has been unblemished and he had even received the President's Police Medal for Distinguished Service in 2007, Police Medal for Meritorious Service in 2000, besides various other medals and awards. It has further been submitted by him that even this accused cooperated during investigation of the case and he will still continue to cooperate in further investigation as and when he may be called to do so by the IO and he also satisfies the triple test laid down for grant of bail.

8. Sh. Wajeeh Sahfiq, Ld. Counsel for A-11, has also addressed similar arguments in support of the bail plea of his client and it is his vehement contention that when a charge sheet stands already filed by the CBI before this court on conclusion of investigation qua his client and the above other co-accused, there is no reason for this court to deny bail to the accused as this case squarely falls within the guidelines laid down by the Hon'ble Supreme Court as well as by the Hon'ble High Court in the above said cases.

9. Per contra, Ld. SPP for CBI has strongly opposed the bail applications of the above accused while submitting that all of them were part of the above conspiracy, in furtherance of which not only A-2 was appointed to the post of CEO of DWB by manipulation of the rules and procedure governing the said appointment, but both A-1 and A-2 had also then abused and misused their official positions in making appointments of the remaining accused, as well as of some other persons, to various posts by flouting the legal procedure and rules governing the said appointments. It is also his submission that as a result of the above illegal appointments and abuse of their office by A-1 and A-2, a huge loss of Rs. 27,20,494/- to the exchequer of Delhi Government has been caused, which is also the amount of undue and illegal benefits caused to the above said appointees. It is, thus, his submission that even if there are no allegations or evidence of demand or acceptance of any bribe by A-1 or A-2 from the other co-accused or any other person, there is

sufficient prima facie evidence against all these accused for offences alleged against them in the charge sheet and thus, their bail applications are liable to be dismissed.

10. In the case of **Court On Its Own Motion Vs. CBI, (2003) 09 DLT 494**, which case is known as **Court On Its Motion-1** and is being relied upon by Ld. Defence Counsels, a Single Bench of the Hon'ble High Court of Delhi, while considering the provisions contained under Sections 170, 173 and 437 Cr.P.C., in light of the question as to whether a Special Judge of CBI was justified or not in refusing to accept a chargesheet being filed without arrest of the accused persons, had given the following directions to the Criminal Courts in such cases:-

**“26. Arrest of a person for less serious or such kinds of offence or offences those can be investigated without arrest by the police cannot be brooked by any civilized society.**

**Directions for Criminal Courts :-**

**(i) Whenever officer-in-charge of police station or investigating agency like CBI files a chargesheet without arresting the accused during investigation and does not produce the accused in custody as referred in Section 170 Cr.P.C the Magistrate or the court empowered to take cognizance or try the accused shall accept the chargesheet forthwith and proceed according to the procedure laid down in Section 173 Cr.P.C. and exercise the options available to it as discussed in this judgment. In such a case the Magistrate or court shall invariably issue a process of**

**summons and not warrant of arrest.**

**(ii) In case the court or Magistrate exercises the discretion of issuing warrant of arrest at any stage including the stage while taking cognizance of the chargesheet, he or it shall have to record the reasons in writing as contemplated under Section 87 Cr.P.C. that the accused has either been absconding or shall not obey the summons or has refused to appear despite proof of due service of summons upon him.**

**(iii) Rejection of an application for exemption from personal appearance on any date of hearing or even at first instance does not amount to non-appearance despite service of summons or absconding or failure to obey summons and the court in such a case shall not issue warrant of arrest and may either give direction to the accused to appear or issue process of summons.**

**(iv) That the Court shall on appearance of an accused in a bailable offence release him forthwith on his furnishing a personal bond with or without sureties as per the mandatory provisions of Section 436 Cr.P.C.**

**(v) The Court shall on appearance of an accused in non-bailable offence who has neither been arrested by the police/Investigating agency during investigation nor produced in custody as envisaged in Section 170 Cr.P.C. call upon the accused to move a bail application if the accused does not move it on his own and release him on bail as the circumstance of his having not been arrested during investigation or not being produced in custody is itself sufficient to entitle him to be released on bail. Reason is simple. If a person has been at large and free for several years and has not been even arrested during**



investigation, to send him to jail by refusing bail suddenly, merely because chargesheet has been filed is against the basic principles governing grant or refusal of bail.

(vi) That the Court shall always keep the mandatory provisions of Section 440 Cr.P.C. in mind while fixing the amount of bail bond or surety bond which provides that the amount of bond shall never be "excessive" amount and take into consideration the financial condition, the nature of offence and other conditions, as "Excessive" amount of bond which a person is not in a position to furnish amounts to denial of bail in a non-bailable offence and conversion of bailable offence into non-bailable offence as the fundamental concept of granting bail on bond is security of appearance of the accused person to answer the charges and face the trial. Nothing more nothing less.

**Principles that govern the grant of refusal of bail in other kinds of cases and shall be followed in letter and spirit are as under:-**

(a) Bail should not be refused unless the crime charged is of the highest magnitude and the punishment of it prescribed by law is of extreme severity;

(b) Bail may be refused when the Court may reasonably presume, some evidence warranting that no amount of bail would secure the presence of the convict at the stage of judgment;

(c) Bail may be refused if the course of justice would be thwarted by the person who seeks the benignant jurisdiction of the Court to be freed for the time being;

(d) Bail may be refused if there is likelihood of the applicant interfering with

witnesses for the prosecution or otherwise polluting the process of justice; and

(e) Bail may be refused if the antecedents of a man who is applying for bail show a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail;

(f) Similarly, the Court shall not while releasing a person on bail put any condition, say in the form of deposit of extra amount or FDR etc. of any amount which is beyond the conditions permissible under Section 439 Cr.P.C.”

11. The above propositions of law laid down by the Hon'ble High Court were also quoted with approval subsequently in case of **Lt. Gen. Tejinder Singh Vs. CBI, 2014 SCC Online Del 4560**. In this case, the Hon'ble High Court was examining the validity of an order passed by Ld. Special Judge, CBI rejecting the bail application of an accused, who appeared before the court on summons issued on taking cognizance of offences upon filing of chargesheet and was not arrested by the CBI during the course of investigation. Her Lordship had made the following observations while granting bail to the accused:-

**“18. The issue that has come up for consideration before this Court, has already been dealt with in the case of Sudhir Nathani vs. Central Bureau of Investigation 2003 (3) JCC 1883 wherein the allegations against the Petitioner were that he was a conduit who passed currency of Rs. 3.25 lac on behalf of the company he was employed with to the public servant through some other person. Chargesheet was filed against him without arrest. But when he appeared in response to the summons inspite**

of the fact that throughout the Petitioner was neither arrested nor brought before the Court or forwarded in custody under Section 170 Cr.P.C., his bail application was dismissed and he was sent to Judicial Custody. The legality of the order dismissing his bail application was challenged before this Court by filing Crl.M.(M) No.2848/2003 and the Court has discussed various decisions of the Apex Court on the subject and laid down the following principles:

‘13. Now comes the question whether Learned Special Judge was justified in rejecting the bail application of the petitioner or not.

14. Supreme Court has laid down the guidelines for grant or refusal of bail under the provisions of Section 437 Cr.P.C in plethora of cases. Some of the significant cases need to be referred in brief. First of such cases is Gurcharan Singh and others v. State AIR 1978 SC 179. Guidelines provided by Supreme Court are as under :-

"Section 437 Cr.P.C provides as to when bail may be taken in case of non-bailable offences. Sub-sec (1) of S. 437 Cr.P.C makes a dichotomy in dealing with non-bailable offences. The first category relates to offences punishable with death or imprisonment for life and the rest are all other non-bailable offences. With regard to the first category, S. 437(1) Cr.P.C imposes a bar to grant of bail by the Court or the officer in charge of a police station to a person accused of or suspected of the commission of an offence punishable with death or imprisonment for life, if there appear reasonable grounds for believing that he has been so guilty.

Naturally, Therefore, at the stage of investigation unless there are some materials to justify an officer or the court to believe that there are no reasonable grounds for believing that the person accused of or suspected of the commission of such an offence has been guilty of the same, there is a ban imposed under S. 437(1), Cr.P.C against granting of bail. On the other hand, if to either the officer in charge of the police station or to the court there appear to be reasonable grounds to believe that the accused has been guilty of such an offence there will be no question of the court or the officer granting bail to him. In all other non-bailable cases, judicial discretion will always be exercised by the court in favor of granting bail subject to sub-section (3) of Section 437, Cr.P.C with regard to imposition of conditions, if necessary. Under sub-section (4) of S. 437, Cr.P.C an officer or a court releasing any person on bail under sub-sec (1) or sub-sec(2) of that section is required to record in writing his or its reasons for so doing. That is to say, law requires that in non-bailable offences punishable with death or imprisonment for life, reasons have to be recorded for releasing a person on bail, clearly disclosing how discretion has been exercised in that behalf."

15. Another significant judgment by the Supreme Court is Babu Singh and Others v. The State of Uttar Pradesh 1978 CriLJ651 wherein value of personal liberty of an accused or even convict

guaranteed by the Constitution was considered to be so fundamental that the Supreme Court held that:-

**"Personal liberty deprived when bail is refused, is too precious a value of our constitutional system recognised under Art. 21 that the crucial power to negate it is a great trust exercisable, not casually but judicially, with lively concern from the cost to the individual and the community. To glamorise impressionistic orders as discretionary may, on occasions, make a litigative gamble decisive of a fundamental right. After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of 'procedure established by law'. So deprivation of personal freedom, ephemeral or enduring, must be founded on the serious considerations, relevant to the welfare objectives of society, specified in the Constitution."**

**16. Again view of Supreme Court in Gudikanti Narasimhulu and others v. Public Prosecutor, High Court of Andhra Pradesh 1978CriLJ 502 is in unanimity with the aforesaid views wherein broad principles governing the grant or refusal of bail were laid down.**

**17. In nutshell, the following principles emerge for grant or refusal of bail under Section 437 Cr.P.C:-**

**(i) Bail should not be refused unless the crime charged is of the highest magnitude and the punishment of it assigned by law is of extreme**

severity;

(ii) Bail should be refused when the court may reasonably presume, some evidence warranting that no amount of bail would secure the presence of the convict at the stage of judgment;

(iii) Bail should be refused if the course of justice would be thwarted by the person who seeks the benignant jurisdiction of the Court to be freed for the time being;

(iv) Bail should be refused if there is likelihood of the applicant interfering with witnesses for the prosecution or otherwise polluting the process of justice; and

(v) Bail should be refused if the antecedents of a man who is applying for bail show a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail.

18. On the premise of aforesaid principles, it can safely be said that while considering the application under Section 437 Cr.P.C court cannot be oblivious of firstly the fact that Investigating Officer did not deem it necessary to either arrest the accused during investigation or forward him in custody under Section 170 Cr.P.C while filing the charge sheet under Section 173 Cr.P.C; secondly that the court while taking cognizance did not find the circumstances existing in Section 87 Cr.P.C while procuring the appearance of the accused through warrant of arrest that the accused has either been absconding or is concealing himself and issued summons for him. Ordinarily these

circumstances would be favorably disposed in favor of the accused in granting bail unless the magnitude of the offence and punishment Therefore is very high and severe and there is likelihood of the accused interfering with witnesses.'

19. In another case **Court On Its Own Motion v. Central Bureau of Investigation 109 (2003) DLT 494**, this Court observed that legal position has been laid down in various cases decided from time to time for guidance and compliance by subordinate Courts but the orders passed by the subordinate Courts reflect violation of the law laid down by this Court and Supreme Court. It was also observed that disobedience or disregard of the law laid down by the High Court by the subordinate Courts is not only against the very concept of rule of law but also verges on contempt of Court as subordinate Courts are, by way of constitutional provisions, bound by the decision of the local High Court, as is every Court of the country including the High Courts, bound by the decisions of the Supreme Court by virtue of provisions of Article 141 of the Constitution. If the subordinate Courts start ignoring the law laid down by their High Courts and start acting contrary thereto, then not only the legal anarchy will set in but the democratic structure of the country, rule of law and concept of liberty of citizens will be the first casualty.”

12. However, this judgment dated 05.09.2014 of Hon'ble Single Bench of the Delhi High Court in case **Lt. General Tejinder Singh (Supra)** did not take note of another judgment of coordinate bench of the Hon'ble High Court announced earlier on 23.05.2014 in case **Sanjay Chandra Vs. CBI, Bail Applications No.508-512 of 2011**, wherein the Hon'ble High Court had made entirely contrary observations to both the above cases while saying :-

**“32. I do not find merit in this contention. No doubt, the circumstances pointed out in the above direction are vital for deciding the application for bail to a person accused of a non-bailable offence, but it is not the only factor for granting bail in case of a non-bailable offence. It is well settled by various pronouncements of Supreme Court that while dealing with a bail application, the court must take into account various factors, namely, nature and gravity of accusation; nature of evidence against the accused; severity of punishment in the event of conviction; danger of accused fleeing from justice; the danger of accused trying to influence the witnesses or thwarting the course of justice and the character and antecedents of the accused etc. Thus, it is clear that while deciding a bail application, the court must take into consideration all important factors and the non-arrest of the accused during investigation and failure of Investigating Officer to produce him in custody while filing the charge sheet cannot be the sole determinant for deciding whether to grant or refuse bail to the petitioner. Of course, it is an important factor which should weigh in the mind of the court. Further, the above direction of the coordinate Bench is in conflict with the mandate of section 437(4) Cr.P.C. which requires that if the court decides to grant bail to a person in a non-bailable offence, it has to record the reasons in writing for doing so. Those reasons, obviously are required to be based upon the cumulative assessment of the above detailed parameters for grant of bail. Thus, in my view, above referred direction of this Court cannot be taken as a binding precedent. Otherwise also, if the above direction of the Coordinate Bench of this court is to be taken as an absolute rule, it has a potential to subvert the course of justice and make Section 437 CrPC which deals with bail to person accused of non-bailable offence redundant. In such a situation, if the Investigating Officer decides to show favour to a person accused of non-bailable offence, he would neither arrest the accused during investigation nor he would produce him in custody as envisaged under Section 170 CrPC. Does it means that in such a situation, the court would be helpless to exercise his**



**judicial discretion conferred upon him under Section 437 CrPC and subjugate his judicial powers to the whims and fancies of the Investigating Officer? Answer to this question is in the negative. The aforesaid directions, if treated as an absolute rule, has a potential to breed corruption. Therefore, I do not find any merit in the submission and I am of the view that the bail applications of the petitioners are to be dealt with on merits in the background of the facts and circumstances of the case. ”**

13. In **Criminal Appeals No.2178-82/2011** titled **Sanjay Chandra Vs. CBI**, reported as **AIR 2012 SC 830**, filed by the accused persons against the above order dated 23.05.2011 of the Hon'ble High Court on their bail applications, the Hon'ble Supreme Court vide its order dated 23.11.2014 had though granted bail to the accused persons, but it was after observing that gravity or seriousness of the offences and punishment provided therefor, as well as the other principles laid down by the court from time to time on the issue of bail, were all liable to be considered together for the purpose of deciding the question of grant of bail to an accused and for balancing these principles and the constitutional rights of the accused. The observations made by their Lordships in this case are being reproduced hereinbelow :-

**“15) In the instant case, as we have already noticed that the "pointing finger of accusation" against the appellants is `the seriousness of the charge'. The offences alleged are economic offences which has resulted in loss to the State exchequer. Though, they contend that there is possibility of the appellants tampering witnesses, they have not placed any material in support of the allegation. In our view, seriousness of the charge is, no doubt, one of the relevant considerations while considering bail applications but**

that is not the only test or the factor : The other factor that also requires to be taken note of is the punishment that could be imposed after trial and conviction, both under the Indian Penal Code and Prevention of Corruption Act. Otherwise, if the former is the only test, we would not be balancing the Constitutional Rights but rather "recalibration of the scales of justice." The provisions of Cr.P.C. confer discretionary jurisdiction on Criminal Courts to grant bail to accused pending trial or in appeal against convictions, since the jurisdiction is discretionary, it has to be exercised with great care and caution by balancing valuable right of liberty of an individual and the interest of the society in general. In our view, the reasoning adopted by the learned District Judge, which is affirmed by the High Court, in our opinion, a denial of the whole basis of our system of law and normal rule of bail system. It transcends respect for the requirement that a man shall be considered innocent until he is found guilty.

If such power is recognized, then it may lead to chaotic situation and would jeopardize the personal liberty of an individual....."

14. The directions or guidelines given in case **Court On Its Motion-1** were again reiterated by a Division Bench of the Hon'ble High Court on a reference made by the Ld. CMM, East District, Karkardooma Courts, Delhi U/S. 395 (2) Cr.P.C. in the case titled as **Court On Its Motion Vs. State, 243 (2017) DLT 373 (DB)**, which case is known as **Court On Its Motion-2**. In this case the court was considering the question as to whether or not, at the time of taking cognizance of offences on filing of the chargesheet, the court of a Metropolitan Magistrate has the powers to examine the discretion exercised by the IO for arresting or not arresting the accused persons and after reiterating the law laid down by Ld.

Single Judge of the Hon'ble High Court in the above case of **Court On Its Own Motion-1** with regard to the accused who were not arrested during investigation, their Lordships of the Division Bench in this case had further made the following observations:-

**“8. Pertinently, after the aforesaid decision was rendered by the learned Single Judge in the year 2004, the Supreme Court laid down the principles in relation to arrest of accused in *Arnesh Kumar v. State of Bihar & Another, II (2014) DMC 546 (SC) : 210 (2014) DLT 599 (SC) : V (2014) SLT 582 : III (2014) DLT (Crl.) 151 (SC) : (2014) 8 SCC 273*, in relation to offences, the sentence wherefore can run up to seven years.**

**9. The view taken by the learned Magistrate that in offences, whereof the sentence is beyond seven years, the investigating agency should necessarily arrest the accused and produce the accused in custody at the time of filing the charge-sheet under Section 173, Cr.P.C. before the Magistrate, has no basis and is contrary to the statutory scheme. In this regard, reference may be made to Sections 2(c), 41, 41(1)(b), 41(1)(b)(a), 157(1), 173(2)(e), 173(2)(f) & 173(2)(g) of the Code, which put the matter beyond any doubt that the investigating agency is not obliged to arrest the accused whenever a cognizable offence is registered. The discretion to arrest the accused has to be exercised by the investigating agency by applying the principles laid down in the Code itself.**

**10. The aforesaid position has been reiterated by this Court in *Udit Raj Poonia v. State (Govt. of NCT of Delhi)*, 238 (2017) DLT 212; as also in *Rajesh Dua v. State, Bail Application No. 778/2017* decided on 9.8.2017. Thus, the Metropolitan Magistrate cannot examine whether the discretion of the IO to arrest, or not to arrest the accused, has been properly exercised. He is only concerned with the chargesheet, as filed. He may return the charge-sheet if he finds that the investigation is not complete, or the charge is not borne**

out from the evidence collected and filed with the charge-sheet. But he cannot return the same merely because the accused has not been arrested and produced in custody at the time of filing the charge-sheet.”

15. A Division Bench of the Hon'ble Delhi High Court in the case bearing **CrI. Ref. No. 1/2018** titled as **Court On Its Own Motion Vs. State** decided on **13.11.2018**, which case is also known as **Court On Its Motion-3**, again came to consider and reiterate the above propositions laid down in the earlier two cases of this series on a reference received from the court of Ld. CMM, North-West, Rohini Courts, Delhi U/S 395 (2) Cr.P.C.. In this case, interim protection from arrest was granted to the accused by the Hon'ble High Court on an application for anticipatory bail filed by him and then the said interim order was made absolute and the application for anticipatory bail was favourably disposed of. The said accused was not arrested initially as his arrest was not required and then he was formally arrested by the IO and was also released on bail as per law. However, subsequently the above anticipatory bail order was recalled and vacated by the Hon'ble High Court and a chargesheet in the case was presented before the court of Ld. CMM in the due course and the accused had moved an application for regular bail before the Ld. CMM and the Ld. CMM had sent a reference on the issue and also to seek the guidance with regard to powers of a court of Magistrate to release an accused on bail U/S 437 Cr.P.C. in cases where the offences alleged against him are punishable with imprisonment for life or death. While considering the effect of their order dismissing the anticipatory bail application of the accused upon

his release on bail by the Ld. CMM on presentation of the chargesheet, their Lordships in this case had made the following observations:-

**“37. Now, we may proceed to answer question (B), i.e.:**

**B) Whether this court needs to delve upon the reasons of non- arrest given by investigating agency after rejection of anticipatory bail of the accused by the Hon'ble High Court?**

**The aforesaid question of law has already been answered by this court in Court on its Own Motion (2) (supra). When the charge sheet is filed before the Court/ Magistrate without arresting the accused, despite the rejection of his anticipatory bail application by the High Court, it is not open to the court to examine whether the exercise of discretion by the Investigating Officer (IO) - not to arrest the accused despite rejection of his anticipatory bail application by this Court, has been properly exercised. The Magistrate/Court is only concerned with the final report/charge sheet, as filed.”**

16. However, in this case **Court On its Own Motion-3**, their Lordships after discussing the various principles governing the grant of bail to an accused under Sections 437 & 439 Cr.P.C., as laid down by the Hon'ble Supreme Court from time to time in different cases including the case **Sanjay Chandra (Supra)**, reported as **(2012) 1 SCC 40**, had summed up the law on the issue of grant of bail with the following observations :-

**“35. What emerges from the aforesaid observations of the Supreme Court, and on a reading of Section 437 Cr PC is the following:**

**(i) The power of the Court to grant or refuse bail is a discretionary power and the exercise of**

the said discretion is circumscribed by germane and relevant considerations. The discretion has to be exercised with care and caution by balancing the valuable right of the individual, and the interest of the society in general.

(ii) The basic rule in respect of an accused in a cognizable, non-bailable offence, and an under-trial is to grant him bail. The option to commit him to jail is the exception. This is because refusal of bail is a restriction on the personal liberty of the individual, which is guaranteed under Article 21 of the Constitution and, therefore, the personal liberty of the accused/under trial should not be curbed lightly.

(iii) Pre-conviction incarceration of the accused/under trial is a preventive measure, and not a punitive one. Denial of bail in an otherwise deserving case to the accused/under trial cannot be actuated with the desire to punish the accused/under trial.

(iv) The option of denying bail, and subjecting the accused/under trial to incarceration would be resorted to by the Court where there are apprehensions that the accused/under trial may: flee from justice; thwart the course of justice; appear to be likely to commit other offences while on bail, or; likely to intimidate witnesses or destroy evidence. These considerations are illustrative and not exhaustive;

(v) The gravity or heinousness of the offence involved, and the severity of the punishment that the accused may be subjected to is a relevant consideration, as it is likely to induce the accused to avoid the course of justice where the offence is grave and the punishment therefor is severe, and must weigh with the Court when considering the question of bail, or jail;

(vi) The conduct of the accused/under trial - particularly, post the involvement in the case, is also a relevant consideration. Thus, if the accused/under trial has not abused the trust

placed by the Court in him, that would be a factor in his favour while considering his application for grant of bail.

(vii) The other circumstance, namely his roots and family background; his age; his antecedents, and; his status in the society are other considerations which would be taken into account at the time of consideration of grant, or refusal, of bail to the accused/ under trial.

(viii) The court can curb (though not completely eliminate) the possibility of the accused fleeing from justice, by subjecting him to conditions such as requiring him to furnish his personal bond; surety bonds; surrendering his passport; reporting at the police station on regular intervals to mark his attendance etc.

(ix) In a case where the accused is alleged to have committed an offence punishable with death or imprisonment for life, or in a case where the accused appears to be a repeat offender whose case is covered by clause (ii) of sub section (1) of section 437, ordinarily his bail may be refused. However, in cases falling under one or more of the first two provisos to Section 437 (1) Cr.P.C., the bail may be granted upon consideration of the relevant circumstances taken note of herein.

(x) The considerations in granting bail are common - both to cases falling under Section 437 (1) Cr P.C, and cases falling under Section 439 (1) Cr.P.C, namely: the nature and gravity of the circumstances in which the offence is committed; the position and the status of the accused with reference to the victim and the witnesses; the likelihood of the accused fleeing from justice; the likelihood of the accused repeating the offence; the likelihood of the accused jeopardizing his own life -being faced with a grim prospect of possible conviction in the case; the likelihood of the accused tampering with evidence or influencing witnesses; the history of the case as well as of its investigation, and other relevant grounds which cannot be

exhaustively set out.”

17. In the case of **Sidharth Vs. State of Uttar Pradesh, (2021) SCC OnLine SC 615** being relied upon by Ld. Defence Counsels, the Division Bench of the Hon'ble Supreme Court had also considered the question as to whether in view of the provisions contained in Section 170 Cr.P.C., the accused was required to be taken into custody or to be produced in custody before the court at the time of filing of chargesheet, if he was not arrested during investigation of the case, and their Lordships, while referring to the law laid down by the Hon'ble Delhi High Court in the above said cases as well as some other judgments on the subject, had made the following observations:-

**“11. We are in agreement with the aforesaid view of the High Courts and would like to give our imprimatur to the said judicial view. It has rightly been observed on consideration of Section 170 of the Cr.P.C. that it does not impose an obligation on the Officer-in-charge to arrest each and every accused at the time of filing of the chargesheet. We have, in fact, come across cases where the accused has cooperated with the investigation throughout and yet on the chargesheet being filed non-bailable warrants have been issued for his production premised on the requirement that there is an obligation to arrest the accused and produce him before the court. We are of the view that if the Investigating Officer does not believe that the accused will abscond or disobey summons he/she is not required to be produced in custody. The word “custody” appearing in Section 170 of the Cr.P.C. does not contemplate either police or judicial custody but it merely connotes the presentation of the accused by the Investigating Officer before the court while filing the chargesheet.**

**12. We may note that personal liberty is an**



**important aspect of our constitutional mandate. The occasion to arrest an accused during investigation arises when custodial investigation becomes necessary or it is a heinous crime or where there is a possibility of influencing the witnesses or accused may abscond. Merely because an arrest can be made because it is lawful does not mandate that arrest must be made. A distinction must be made between the existence of the power to arrest and the justification for exercise of it. If arrest is made routine, it can cause incalculable harm to the reputation and self-esteem of a person. If the Investigating Officer has no reason to believe that the accused will abscond or disobey summons and has, in fact, throughout cooperated with the investigation we fail to appreciate why there should be a compulsion on the officer to arrest the accused.”**

18. The above question again came up for consideration before another Division Bench of the Hon'ble Supreme Court in a subsequent case titled as **Aman Preet Singh Vs. C.B.I. Through Director, 2021 SCC OnLine SC 941**, where NBWs were issued against an accused by the Ld. Special Chief Judicial Magistrate (CBI), Bhubaneswar on filing of chargesheet on ground that the offences alleged against the accused were economic offences. In this case, the accused was earlier granted interim protection by the Hon'ble Supreme Court with observations that he may apply for regular bail before the learned trial court and obtain necessary orders. While reiterating the law laid down in the case **Siddharth (Supra)** and the above judgment given in the case of **Court On Its Motion-1 (Supra)** by the Hon'ble Delhi High Court, their Lordships had made following observations:-

**“11. Insofar as the present case is concerned and the general principles under Section 170 Cr.P.C., the most apposite observations are in sub-para (v) of the**

**High Court judgment in the context of an accused in a non-bailable offence whose custody was not required during the period of investigation. In such a scenario, it is appropriate that the accused is released on bail as the circumstances of his having not been arrested during investigation or not being produced in custody is itself sufficient to entitle him to be released on bail. The rationale has been succinctly set out that if a person has been enlarged and free for many years and has not even been arrested during investigation, to suddenly direct his arrest and to be incarcerated merely because charge sheet has been filed would be contrary to the governing principles for grant of bail. We could not agree more with this.**

**12. If we may say, the observation herein above would supplement our observations made in Siddharth vs. State of Uttar Pradesh & Anr. (supra) and must be read together with that judgment.”**

19. More recently, in the case of **Satender Kumar Antil Vs. Central Bureau of Investigation & Anr., (2021) 10 SCC 773** being relied upon by Ld. Defence Counsels also, a Division Bench of the Hon'ble Supreme Court vide its order dated 07.10.2021 had laid down certain guidelines for grant of bail to accused persons in cases of different categories, if the two requisite conditions are satisfied i.e. firstly, the accused was not arrested during investigation and secondly, he cooperated throughout the investigation, including appearance before the IO whenever called. The relevant portion of the above order of the Hon'ble Supreme Court in this case is also being reproduced herein below:-

**“3. We are inclined to accept the guidelines and make them a part of the order of the Court for the benefit of the Courts below. The guidelines are as under :**

### “Categories/Types of Offences

A) Offences punishable with imprisonment of 7 years or less not falling in category B & D.

B) Offences punishable with death, imprisonment for life, or imprisonment for more than 7 years.

C) Offences punishable under Special Acts containing stringent provisions for bail like NDPS (S.37), PMLA (S.45), UAPA (S.43D(5), Companies Act, 212(6), etc.

D) Economic offences not covered by Special Acts.

### REQUISITE CONDITIONS

- 1) Not arrested during investigation.
- 2) Cooperated throughout in the investigation including appearing before Investigating Officer whenever called.

(No need to forward such an accused along with the chargesheet (*Siddharth Vs. State of UP, 2021 SCC online SC 615*))

### CATEGORY A

After filing of chargesheet/complaint taking of cognizance

a) Ordinary summons at the 1st instance/including permitting appearance through Lawyer.

b) If such an accused does not appear despite service of summons, then Bailable Warrant for physical appearance may be issued.

**c) NBW on failure to failure to appear despite issuance of Bailable Warrant.**

**d) NBW may be cancelled or converted into a Bailable Warrant/Summons without insisting physical appearance of accused, if such an application is moved on behalf of the accused before execution of the NBW on an undertaking of the accused to appear physically on the next date/s of hearing.**

**e) Bail applications of such accused on appearance may be decided w/o the accused being taken in physical custody or by granting interim bail till the bail application is decided.**

#### **CATEGORY B/D**

**4. On appearance of the accused in Court pursuant to process issued bail application to be decided on merits.**

#### **CATEGORY C**

**5. Same as Category B & D with the additional condition of compliance of the provisions of Bail under NDPS S. 37, 45 PMLA, 212(6) Companies Act 43 d (5) of UAPA, POSCO etc.**

**6. Needless to say that the category A deals with both police cases and complaint cases.**

**7. The trial Courts and the High Courts will keep in mind the aforesaid guidelines while considering bail applications. The**

**caveat which has been put by learned ASG is that where the accused have not cooperated in the investigation nor appeared before the Investigating Officers, nor answered summons when the Court feels that judicial custody of the accused is necessary for the completion of the trial, where further investigation including a possible recovery is needed, the aforesaid approach cannot give them benefit, something we agree with.**

**8. We may also notice an aspect submitted by Mr. Luthra that while issuing notice to consider bail, the trial Court is not precluded from granting interim bail taking into consideration the conduct of the accused during the investigation which has not warranted arrest. On this aspect also we would give our imprimatur and naturally the bail application to be ultimately considered, would be guided by the statutory provisions.**

**The suggestions of learned ASG which we have adopted have categorized a separate set of offences as “economic Offences” not covered by the special Acts. In this behalf, suffice to say on the submission of Mr. Luthra that this Court in Sanjay Chandra vs. CBI, (2012) 1 SCC 40 has observed in para 39 that in determining whether to grant bail both aspects have to be taken into account:**

- a) seriousness of the charge and**
- b) severity of punishment.**

**Thus, it is not as if economic offences are**

**completely taken out of the aforesaid guidelines but do form a different nature of offences and thus the seriousness of the charge has to be taken into account but simultaneously, the severity of the punishment imposed by the statute would also be a factor.”**

20. Subsequently, while disposing the M.A. No. 1849/2021 filed in the above case titled as **Satender Kumar Antil (Supra)**, the Division Bench of the Hon'ble Supreme Court vide its order dated 16.12.2021, on being called upon and while making it clear that the question of applicability of Section 45 of the Prevention of Money Laundering Act (PMLA), which stood already struck down by the Hon'ble Supreme Court, was to be decided only by the Bench before which the said issue was pending, had also made the following observations:-

**“We make it clear that our intent was to ease the process of bail and not to restrict it. The order, in no way, imposes any additional fetters but is in furtherance of the line of judicial thinking to enlarge the scope of bail.**

**At this stage, suffice for us to say that while referring to category ‘C’, inadvertently, Section 45 of Prevention of Money laundering Act (PMLA) has been mentioned which has been struck down by this Court. Learned ASG states that an amendment was made and that is pending challenge before this Court before a different Bench. That would be a matter to be considered by that Bench.**

**We are also putting a caution that merely by categorizing certain offences as economic offences which may be non-cognizable, it does not mean that a different meaning is to be given to our order.**

**We may also clarify that if during the course of investigation, there has been no cause to arrest the**

**accused, merely because a charge sheet is filed, would not be an ipso facto cause to arrest the petitioner, an aspect in general clarified by us in Criminal Appeal No.838/2021–Siddharth v. State of Uttar Pradesh & Anr. Dated 16.08.2021.’**

Thus, their Lordships further clarified vide its above order that the purpose behind the laying of above guidelines vide their earlier order dated 07.10.2021 was to ease the process of grant of bail in such cases and not to restrict it and the said order, in no way, imposes any additional fetters, but is in furtherance of the line of judicial thinking to enlarge the scope of bail.

21. The above case titled **Satender Kumar Antil (Supra)** again came up for consideration before the Hon’ble Supreme Court and vide order dated 11.07.2022, reported as **AIR 2022 SC 3386**, not only the above guidelines were reiterated, but it was once again directed by their Lordships that the provisions of Sections 41 and 41A Cr.P.C. and the directions earlier given in cases **Arnesh Kumar v. State of Bihar & Another, (2014) 8 SCC 273** and **Sidharth (Supra)** are to be strictly followed. Their Lordships vide this order had further directed the Government of India to consider the introduction of a separate enactment in the nature of a Bail Act so as to streamline the grant of bails.

22. Again, in another case titled as **Rana Kapoor Vs Directorate of Enforcement, (2022) SCC Online Del 4065**, the Hon’ble High Court came to consider the question of grant of bail in a case of money laundering under the PMLA to an accused, who was not arrested during the course of investigation

and whose regular bail application stood already dismissed by the Ld. Special Judge trying the above case/ECIR registered by the DoE/ED and also the scheduled offences case of CBI. While quoting and relying upon the above propositions laid down in the case of **Satender Kumar Antil (Supra)**, their Lordship had granted bail to the petitioner/accused in the said case even though the allegations of causing of a wrongful loss of around Rs. 466 crores to the Yes Bank, in furtherance of a criminal conspiracy of which the petitioner/accused was a member, were found to have been made in the scheduled offences case. The relevant observations made by their Lordship in the said case are also being reproduced herein below :-

**‘33. The applicant was not implicated in FIR bearing RC No.2232021A0005 registered by CBI. The applicant was implicated in present criminal complaint filed by the respondent/ED and arrayed as accused no 2. The investigating officer consciously did not arrest the applicant. The applicant participated in investigation as his three statements under section 50 PMLA were recorded. The respondent also did not allege that the applicant neither participated nor cooperated in investigation. The concerned Special Court after taking cognizance on present criminal complaint ordered for summoning of the accused persons including the applicant. The investigating officer even after filing of present complaint did not apply for custody of the applicant. The co-accused Gautam Thapar was arrested consciously by the investigating officer during investigation and was denied bail by the Special Court and High Court and as such the applicant is standing on different footing from co-accused Gautam Thapar. The applicant was taken into custody due to dismissal of bail application vide order dated 20.01.2022 passed by the court of Sh. Sanjeev Aggarwal, Special Judge (PC Act)(CBI)-02 Rouse Avenue District Court, New Delhi. The**



**applicant primarily not seeking bail on merit but on basis of observation made by the Supreme Court in para no 65 of Satinder Kumar Antil decision and as such applicant is not required to pass the test of section 45 PMLA. The conditions as per section 45 PMLA would be applicable, had the applicant filed an application either under section 439 of the Code after arrest during investigation or under section 438 of the Code apprehending his arrest during investigation. As mentioned in present criminal complaint filed by the respondent, the applicant was not arrested during investigation by the investigating agency. There is legal force in argument advanced by the learned Senior Counsel of the applicant that applicant is entitled to bail in view of observations/legal proposition as laid down by the Supreme Court in Satinder Kumar Antil. It is not mandate of section 170 of the Code that if the accused is not taken into custody or arrested during investigation can be arrested or taken into custody after appearance in court post summoning order particularly when neither investigation agency nor prosecution agency sought arrest of accused.'**

23. Therefore, it emerges out from the ratio of above judgments that liberty of an accused is of paramount consideration and his constitutional right to life and liberty is required to be protected and safeguarded while considering the question of grant of bail to him. The basic concept which the court has to keep in mind in deciding such a question is that bail and not jail is the rule. The discretion to arrest an accused in a case lies entirely with the IO and the courts should not examine the legality thereof. Further, the principles laid down by the Hon'ble Supreme Court as well as the Hon'ble High Courts on the issue of grant of bail are also to be kept in mind and the gravity or seriousness of the alleged offence, punishment provided therefor, the chances of absconding of accused from

investigation or trial and also the chances of his influencing the investigation or witnesses etc. are relevant considerations for deciding the question of grant or refusal of bail. Moreover, non arrest of the accused during investigation is an important or prime factor, which has to be taken into consideration while considering the question of grant of bail.

24. Now, coming back to the present case, as already discussed, the applicants have been chargesheeted and summoned in this case for commission of the offence of criminal conspiracy punishable U/S 120B IPC r/w Section 13(2) r/w 13(1) (d) of the PC Act and the substantive offences thereof, though the substantive offences can only be attributed to A-1 and A-2 and not to any of the other applicants as none of them was a public servant at the time of commission of alleged offences. Further, though chargesheet in this case has been filed on 31.08.2022, but the FIR of the case was registered long back on 23.11.2016 and thus, the investigation in this case had been pending with the CBI for a long period of around six years and during this period there was sufficient time and opportunity available to the IO of case to arrest the applicants or any of them. However, still the IO or CBI had taken a conscious decision not to arrest any of the above applicants in this case and the IO has chargesheeted them before this court without arrest. Hence, morally and also legally in view of the above guidelines laid down by the Hon'ble Supreme Court in the case of **Satender Kumar Antil (Supra)** and the legal principles enunciated in the above judgments, the CBI should not have any right to oppose the request for bail being made by the

applicants and it should be left to the court to consider the said request of applicants as per merits of the case.

25. As it emerges out from the above legal position, this court should not examine the legality of discretion exercised by the IO of this case for not arresting the applicants. The case of applicants falls in category B as laid down in the case of **Satender Kumar Anil (Supra)** and thus, their bail applications are required to be decided on merits, consequent upon their appearance before the court on issuance of the process. However, it is not the case of prosecution that the requisite conditions as stated in the above judgment pronounced by the Hon'ble Supreme Court are not satisfied because there are no allegations made against the applicants that they did not appear in response to the summons or notices which were issued to them by the IO for joining of the investigation or that they did not cooperate in investigation.

26. As far as merits of the case are concerned, as already discussed, the present case has been registered with regard to some irregularities committed in making appointments of A-2 to A-11 on different posts and in different capacities in DWB, in furtherance of a criminal conspiracy hatched between all of them and also some other persons qua whom the investigation has still not been concluded. However, admittedly, there are no allegations made against any of the applicants for demand, payment or acceptance etc. of bribe in connection with the above appointments and provisions of the PC Act have been invoked in

this case because it has been alleged that the public offices of A-1 and A-2 were abused or misused in connection with the said appointments. Again, further investigation in the matter may take a long time to conclude and there is no purpose behind taking or keeping the accused persons in custody awaiting conclusion thereof.

27. Further, admittedly, the above appointments of A-3 to A-11 are stated to have been made for a short duration of 89 days only and the alleged loss of Rs. 27,20,494/- caused to the government exchequer is not because of any undue advantage or benefits derived by the main accused Amanatullah Khan (A-1) or others, but the said loss is alleged to be the amount of salaries and emoluments which have been paid to the above appointees or the other co-accused against for the work done by them on the posts to which they were so appointed. They all had already cooperated in investigation of the case and had provided whatever information and documents pertaining to this case could have been in their possession or power. Further, no recovery of any money is stated to have been effected from any of the applicants and since no bribe was paid, there was even no question of recovery thereof from any of the applicants. Therefore, going by the principles laid down in the case of **Satender Kumar Antil (Supra)** and even while considering the request for bail of the applicants on merits of the case, this court finds no ground or reason for denial of bail to them or for taking any of them into custody.

28. Though, some apprehensions have been expressed on behalf of the CBI that the accused persons may tamper with evidence of case or influence the witnesses or ongoing investigation, but in *prima facie* view of this court these apprehensions are baseless and without any reasons as investigation qua these applicants stands already completed and most of the evidence collected during investigation is documentary in nature. Again, even most of the oral evidence pertaining to this case stands already collected. Further, had there been any such apprehension in mind of the investigating agency that the applicants will tamper with or influence the evidence or pending investigation, then nothing prevented the IO to arrest the applicants in this case or to bring the above fact or conduct of the applicants to notice of this court and having not done so, the prosecution cannot now be heard of saying it simply to oppose the bail of accused persons. Again, such apprehensions being expressed from the side of prosecution have to be reasonable and real and not mere apprehensions having no backing by satisfactory material.

29. Further, none of the applicants in *prima facie* view of the court can also be considered to be a flight risk as they all are permanent residents of their given addresses having roots in society and families to support. Again, it cannot also be ignored that A-1 was MLA from Okhla constituency at the relevant time of commission of alleged offences and even now he is stated to be a MLA from the same constituency having been elected on the ticket of AAP. As discussed above, A-2 is a retired IPS

officer having a long and decorated service tenure behind him. Thus, in considered view of this court, all the applicants also satisfy the triple test as laid down by the Hon'ble Supreme Court in cases **P. Chidambaram Vs. CBI, (2020) 13 SCC 337** and **P. Chidambaram Vs. Directorate of Enforcement, (2020) 13 SCC 791** and the other parameters laid down for grant of bail.

30. Hence, considering the totality of facts and circumstances and in light of the legal position discussed above, this court is of the considered opinion that it is a fit case where bail should be granted to the applicants pending trial and there is no reason or ground for taking any of them into custody. Hence, they all are hereby admitted to bail and are directed to furnish a personal bond of Rs. fifty thousand each with one surety of the like amount each for their appearance before this court during the trial and till the disposal of the case. However, this is subject to the following conditions :-

- 1) that they shall not leave the country without prior permission of the court;
- 2) that they shall not tamper or attempt to tamper with evidence of this case in any manner;
- 3) that they shall not influence or attempt to influence the witnesses of this case in any manner;
- 4) that they shall join the pending investigation of the case, if required by the IO/HIO at any point of time and they shall also cooperate with the IO/HIO in this regard; and
- 5) that they shall not indulge in any criminal activities

and shall not commit similar offences again.

31. Thus, the present bail applications moved on behalf of all the above applicants/accused i.e. A-1 to A-11 stand allowed and disposed off accordingly with the above directions and observations. However, it is made clear that nothing contained herein shall tantamount to expression of any opinion on merits of the case. Copy of this order may be uploaded on the official website of the court today itself.

**Announced in open court  
on 01.03.2023**

**(M. K. NAGPAL)  
Special Judge (PC Act),  
CBI-09 (MPs/MLAs Cases),  
RADC, New Delhi :01.03.2023**