

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

**IN THE COURT OF SH. AJAY KUMAR KUCHAR,
SPECIAL JUDGE (PC ACT) (CBI)-09,
ROUSE AVENUE COURT COMPLEX, NEW DELHI.**

RC No.220 2017 E 0011

CBI EOU-IV NEW DELHI

U/s 120-B R/W 420 IPC and 8 and 13 (2) R/W 13 (1) (d) of PC Act,
1988

CBI Vs. M/s. INX Media (P) Ltd. and Ors.

05.09.2019

Present: Sh. Tushar Mehta, Ld. Solicitor General with Sh. Kanu Agarwal, Advocate, Sh. Rajat Nair, Advocate, Dr. Padmini Singh, Sh. Pankaj Gupta, learned Senior Pps, Sh. R. Parthasarathy, Dy. Superintendent of Police, CBI/EOU-IV and Sh. Sanjay Dubey, Dy. Superintendent of Police, CBI/EOU-V.

Sh. Palaniappan Chidambaram in police custody with Sh. Kapil Sibal, learned Senior Advocate, Sh. Dayan Krishnan, learned Senior Advocate with Sh. Arshdeep Singh, Sh. Kunal Vajani, Sh. Adit Pujari, Sh. Hitesh Rai, Sh. Akshat Gupta, Sh. Ayush Agarwal, Sh. Sanjeevi Sheeshadari and Sh. Aman Singh Brar, Advocates.

ORDER :

1. The accused has been produced from CBI custody after his medical examination at Dr. Ram Manohar Lohia Hospital in police custody.
2. An application for sending the accused to judicial custody has



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been moved by the CBI.

3. It is submitted in the application inter-alia, that the accused was remanded to CBI custody vide order dated 22.08.2019 and then upto 30.08.2019, and thereafter upto 02.09.2019. The CBI custody of the accused was extended upto 03.09.2019. From 03.09.2019, his remand was extended in CBI custody till date i.e. 05.09.2019. It is stated that the accused be sent to judicial custody for the reasons :-

- a) That offences in question for which accused is being investigated are serious in nature and have far reaching ramification.
- b) The accused is a powerful and influential person in public life and wields substantial and pervasive influence over witnesses and thus, a substantial potential of tampering with the evidence.
- c) Letters Rogatories have been sent to concerned countries and executive reports are awaited and the accused wielding his influential position has ensured that investigating agency does not get the details sought in the aforesaid Letters Rogatories.
- d) That there is every possibility that accused will interfere with the investigation by tampering of evidence etc. and thus, frustrate the investigation which is at a crucial stage.

4. I have heard the submissions of Sh. Tushar Mehta, learned Solicitor General appearing for CBI and Sh. Kapil Sibal and Sh.



Dayan Krishnan, learned Senior Advocates appearing for the accused.

5. At the very outset, the learned Solicitor General has informed the court that the Criminal Appeal challenging the order of the Delhi High Court rejecting the anticipatory bail to the accused in the case of Enforcement Directorate, has been dismissed by the Hon'ble Supreme Court today. He has also informed that the SLP filed by the accused before the Hon'ble Supreme Court challenging the order of remand dated 22.08.2019 passed by this court has been dismissed as withdrawn today. It is stated by learned Solicitor General at Bar that while disposing of this SLP, the Hon'ble Supreme Court has observed that all interim orders stand vacated. This he has pointed out for the reason that an application for interim bail was moved by the accused in view of the order of the Hon'ble Supreme Court dated 02.09.2019. He submitted that in view of the order passed today, all interim orders by the Hon'ble Supreme Court have been vacated.
6. The learned Solicitor General has sought judicial custody remand of the accused on the grounds mentioned in the application.
7. Sh. Kapil Sibal, learned Senior Counsel for the accused has submitted that there is no justification or sufficient reason for the judicial remand of the accused. He submitted that CBI has not brought anything on the record to even suggest that the accused has ever tried to influence the witnesses or interfere in the investigation. He argued



that the accused is ready to surrender to the Enforcement Directorate since his appeal challenging the order of Hon'ble Delhi High Court has been dismissed.

8. So far as the present case is concerned, he submitted that there being no justified ground for the judicial remand of the accused, he shall be 'released'. He has referred to the judgment in **K. K. Girdhar vs. M. S. Kathuria**, ILR (1988) II Delhi 197 to make the submission that accused can seek bail on verbal application. He has referred to the judgment in the case of **Manu Bhai Ratilal Patel vs. State of Gujarat**, (2013) 1 SCC 314 wherein the Hon'ble Supreme Court has observed that the detention of an accused in custody i.e. police or judicial, can be directed if such detention is necessary. It was also observed that Magistrate can appreciate the factual scenario and apply his mind whether there is a warrant for police remand or justification for judicial remand or there is no need for remand at all.

9. He further argued that the Letters Rogatories which have sent to different countries were issued in 2018 when the accused was not in custody and it is more than one year that the Letters Rogatories have been issued but there is nothing to even suggest that the accused ever tried to interfere in their execution.

10. He further submitted that all the evidence in the present case is



documentary and there is no requirement of his further interrogation. Therefore, there is no valid ground for remand of the accused in judicial custody.

11. The learned Solicitor General on the other hand has argued that Section 167 of Cr.P.C. provides for the remand of an accused and submitted that whenever any person is arrested and detained in custody and the investigation cannot be completed within 24 hours, the said person has to be produced before a Magistrate who may authorize the detention of the accused in such custody as the Magistrate thinks fit. He submitted that when the investigation is pending and the accused has been arrested, the accused has to be produced for his remand which may either be police or judicial. He further submitted that there is no other option under Section 167 of Cr.P.C., unless an accused is granted bail as per Section 437/439 of Cr.P.C. However, the learned Senior Counsel for the accused has submitted that the judicial remand cannot be on the asking and the court has to see that the adequate ground for grant of remand and for extension of remand exists.

12. If a person is produced after his arrest then the Magistrate has to consider the reason for the arrest and the requirement of the custody of the accused. If the Magistrate finds that no case is made out against the arrestee on the basis of documents then the said person can be



'released' but if there are adequate reasons for his remand then the said person can be remanded to either police custody or judicial custody.

13. In the present case, the accused was remanded to police custody on 22.08.2019, 26.08.2019, 30.08.2019, 02.09.2019 and 03.09.2019. This remand was granted by the court having taken into account the facts brought before the court regarding the involvement of the accused in the present case. The question now is about the remand of the accused in judicial custody after the period of custodial interrogation has come to end.

14. The allegations against the accused were found serious therefore, he was remanded to police custody. The investigation of the case is still in progress. The CBI has apprehension that because of his status and position, the investigation may be hampered by the accused. It is not a case where the accused can be 'released' at the stage of considering his extension of remand as submitted by the learned Senior Counsel for the accused.

15. Now having considered all the facts and circumstances of the case, the nature of the offences, the stage of investigation, the accused is remanded to judicial custody.

16. Accordingly, the accused is remanded to judicial custody upto 19.09.2019. Custody warrants be prepared.



17. The application stands disposed off.
18. Copy of the order be given dasti to both the parties, as requested.
19. At this stage, an application has been moved seeking permission to carry his spectacles, prescribed medicines and facility of western toilet. He has moved another application for direction to the Jail Authority to provide adequate security considering that he has Z-Category security. It is also prayed that separate Cell with adequate security be provided. The requests made in the applications, stand allowed.
20. Copy of this order along with the copies of applications submitted today be sent the Superintendent, Tihar Jail, Delhi, for necessary compliance.

Announced in the Open Court
On 05.09.2019

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(AJAY KUMAR KUCHAR)
Special Judge (PC Act) (CBI)-09,
RACC, New Delhi. (a)
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