

IN THE SPECIAL COURT FOR CBI AT GREATER BOMBAY

ORDER BELOW EXH.6

IN

CBI SPECIAL CASE NO. 1648/2021
(CNR No. MHCC020164572021)

Central Bureau of Investigation
(AC-VI/SIT, New Delhi)

...Prosecution

V/S.

Vijay Vittal Mallya and Others.

... Accused

**CORAM: S.P. NAIK-NIMBALKAR
SPECIAL JUDGE (CBI)
(COURT ROOM NO.51)**

DATE : 29.6.2024.

Appearance :-

Ld. SPP Mr. D.P. Singh for CBI.

ORAL ORDER

1. This is an application filed on behalf of CBI seeking issuance of Non-Bailable Warrant (open ended) of Arrest against accused no.1 Vijay Vittal Mallya.

2. It is submitted that, accused no.1 has evaded the process of law. He is presently living in England. The details of deliberate evasion of the process of law as well as declaration as a Fugitive Economic Offender of accused Vijay Mallya is tabulated by CBI as under:-

RCBSM2017E0006 (Spl.Case No.6/2017) (CNR MHCC020010692017) (IDBI Case)	
19.11.2016	Non-bailable Warrant issued as Vijay Mallya had evaded the process of law in India on 02.03.2016.

31.01.2017	Cognizance taken and fresh NBW issued, which is still unexecuted.
10.12.2018	Sr. District Judge, Westminster Magistrate's Court recommended extradition.
04.02.2019	UK Home Secretary ordered extradition of Vijay Mallya
20.04.2020	UK High Court dismissed the appeal filed by Vijay Mallya against extradition.
14.05.2020	UK High Court rejected the plea of Vijay Mallya to appeal in Supreme Court.
PMLA Spl. Case No. 100007/2017, CNR-MHCC020068672017 (IDBI Case)	
19.06.2017	Prosecution complaint was filed by ED against accused, including Vijay Mallya. Cognizance was taken and process was issued against all the accused persons.
05.07.2017	PP for ED filed an application for issuance of NBW against him. NBW was issued, which is still pending execution.
PMLA Spl. Case No. 100005/2018, CNR-MHCC020076412018 (SBI consortium case)	
20.06.2018	Prosecution complaint was filed by ED against accused, including Vijay Mallya. Cognizance was taken and NBW was issued against Vijay Mallya, which is still pending execution.
Fugitive Economic Offender Act proceedings (Criminal Misc. Application No.854 of 2018)	
05.01.2019	Vijay Mallya was declared a Fugitive Economic Offender, which as per the scheme of the FEO Act, can only be done when there are warrant of arrest stand issued and the person refuses to return to India or has left India.

3. On the basis of above facts, it is submitted that, the accused is a fugitive and an absconder. He has evaded the process of law and

continues to subvert the process of law in India. It is reasonably believed that, the said accused shall not obey the directions of this Court and appear on the issuance of summons or bailable warrant issued against him. He has shown his deliberate evasion to the process of law at the stage of investigation itself. Thus, considering the entire facts and circumstances, it is prayed that, Non-bailable Warrant of Arrest (open ended) be issued against accused Vijay Vittal Mallya.

4. Heard Ld. SPP Mr. D.P. Singh for CBI.

5. As per charge-sheet, FIR bearing no.RC-BD1-2016-E-0008 dated 12.8.2016 was registered by CBI for the offence punishable u/s. 120B r/w. 420 of Indian Penal Code (IPC) and Sec. 13(2) r/w.13(1)(d) of Prevention of Corruption Act, 1988 (P.C. Act). As per order below Exh.1, passed today, process is issued against accused nos.1 to 10.

6. As per Sec.204 of Code of Criminal Procedure (Cr.P.C), either summons or warrant needs to be issued against accused persons. As per Sec.204(5) of Cr.P.C., *nothing in this Section shall be deemed to affect the provisions of Section 87*. Section 87 of Cr.P.C, in this context, lays down as under:-

87. Issue of warrant in lieu of, or in addition to, summons.—A Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person, issue, after recording its reasons in writing, a warrant for his arrest—
(a) *if, either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons; or*
(b) *if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.*

7. On going through Sec.87 of Cr.PC and applying the same to the present case, it literally means that, either before issuance of summons, before the time fixed for appearance of accused, if Court sees reason to believe that the accused has absconded or will not obey the summons, then warrant of his arrest can be issued for the reasons to be recorded.

8. On going through the table provided by CBI, it can be easily inferred that, the accused is not residing in India and at present, residing in United Kingdom. It can be further inferred that, in CBI Spl.Case No.6/2017; PMLA Spl. Case No.7/2017 and PMLA Spl. Case No.5/2018, Non-bailable Warrants (NBW) have been already issued against the accused Vijay Mallya. The NBWs are yet pending for execution. It leads to the inference that, the accused has evaded the process of law and was declared as Fugitive Economic Offender. Resultantly, in such a scenario, no purpose would be served by issuing process in the form of summons against accused no.1. As accused no.1 Vijay Mallya has absconded, declared as fugitive and NBWs are pending for execution against him in other cases, this is a fit case to issue open ended NBW against accused no.1 Vijay Mallya for securing his presence. Hence, the following order:-

ORDER

1. Application (Exh.6) in CBI Special Case No. 1648 of 2021 is hereby allowed.
2. As per Sec.87 of Cr.PC, in lieu of issuing summons, issue Non-Bailable Warrant of Arrest (Open Ended) against accused no.1 Vijay Vittal Mallya, to secure his presence in this case.

3. CBI to take constructive efforts for execution of Non-Bailable Warrant against accused no.1 Vijay Vittal Mallya.

(Application is disposed of accordingly).



Date- 29.6.2024

Dictated on 29.6.2024.
Transcribed on 29.6.2024.
Signed by HHJ on 29.6.2024.

(S.P. NAIK-NIMBALKAR)
Special Judge (CBI)
Gr. Bombay (CR 51)

"CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER."

Date 29.6.2024 at 3.47 pm
UPLOAD DATE AND TIME

(Nitin V. Ubale)
Selection Gr. Stenographer(Gr.1)

Name of the Judge (With Court room no.)	H.H.J. Shri. S. P. Naik-Nimbalkar (C.R. No. 51)
Date of Pronouncement of JUDGMENT/ ORDER	29.6.2024
JUDGMENT/ORDER signed by P.O. on	29.6.2024
JUDGMENT/ORDER uploaded on	29.6.2024