

**CNR No. : DLCT11-001086-2019**

**Case No. : SC/16/2019**

**RC No. : 217-2013-A-0003**

**Branch : CBI/AC-II/New Delhi**

**U/Sec : 120B r/w 420 IPC and Sec 7, 8, 9, 12 &  
13(2) r/w 13(1) (d) of P.C. Act, 1988.**

**CBI v. S. P. Tyagi & Ors.**

**07.08.2025**

Present : None for the parties.

1. Matter is fixed today for orders on the issue of the entitlement of the accused Christian Michel James for releasing him under the provisions of section 436A Cr.P.C.

2. Detailed arguments already heard.

3. I have carefully perused the record in light of submissions made before me.

4. It has been submitted on behalf of the above accused that he was extradited to India on 04.12.2018 and was accordingly arrested by CBI in RC No. 217-2013-A-0003 u/sec. 120B r/w 420 IPC and section 7, 8, 9, 12 & 13 (2) r/w 13 (1) (d) of PC Act, 1988 and was charge-sheeted before this court. It is further submitted that after arrest in the main case pertaining to CBI, the accused was also arrested in the case registered by the Directorate of Enforcement vide ECIR DLZO/15/2014/AD (VM) u/sec. 3 & 4 of PMLA Act on 22.12.2018.

5. It is argued on behalf of the accused that the accused Christian Michel James was extradited to India on the basis of extradition treaty between India and UAE and as per extradition treaty he was extradited in respect of offences u/sec. 120-B, 415 & 420 of The Indian Penal Code for which the maximum sentence prescribed under law is upto seven years imprisonment. It is stated that by considering the period undergone by the accused before extradition and after extradition, he has already undergone the period of maximum punishment (seven years), so, by virtue of the provisions of section 436A Cr.P.C, he is entitled to be released. It is submitted that prior to his extradition on 04.12.2018, the accused had remained in detention for around 123 days in UAE and the said period of detention is required to be taken into consideration while calculating the period of custody.

6. Ld. Counsel for accused has relied upon the various provisions including Article 17 of the Extradition Treaty between India and UAE (published on 20.07.2000) and section 21 of the Extradition Act, 1962 and submitted that the above accused cannot be tried for the offences other than the offences mentioned above for which he was extradited i.e. u/sec. 120-B, 415 & 420 of The Indian Penal Code. Further, that the provisions of law other than section 120B, 415 and 420 of Indian Penal Code including the provisions of PMLA, 2002 cannot be invoked against him as the same are in violation of the extradition treaty/decreree. Ld. Counsel for accused has also referred to the findings/report of the UN HRC WGAD adopted at its eighty-ninth session, held on 23-

27 November 2020.

7. Ld. Counsel for accused Christian Michel James has relied upon the following judgments:-

- Daya Singh Lahoria vs. Union of India & Ors. (2001) 4 SCC 516.
- Gramophone Company of India Ltd. vs. Birendra Bahadur Pandey 1984 LawSuit (SC) 50.

8. Ld. Counsel for accused has also referred to the Rule 1178A of Delhi Prisons Rules 2018 and Articles 245 and 253 of the Constitution of India.

9. On the other hand, the submissions made on behalf of the accused have been opposed and controverted by the Ld. SPP for CBI. It is submitted that the accused is not entitled to benefit u/sec. 436A Cr.P.C as one of the offence alleged against him is u/sec. 467 IPC which entails life imprisonment. It is further submitted that the issues now raised on behalf of the above accused, were raised earlier also and different orders have been passed by the courts after considering the above submissions. In this regard, a reference is made to the order dated 11.03.2022 of Hon'ble High Court of Delhi on the bail application filed by the present accused (bail application no. 2586/2021), order dated 25.09.2024 of Hon'ble High Court of Delhi on the bail application no. 1338/2024 filed by the present accused, order dated 07.02.2023 of the Hon'ble Supreme Court in SLP (Crl) no. 4145/2022 filed by the present accused. A reference is

also made to order dated 23.02.2024 passed by the Ld. Predecessor in this case. Ld. SPP for CBI has relied upon the judgment of Hon'ble Supreme Court in Commissioner of Customs, Bangalore vs. G.M. Exports & Ors. (2016) 1 SCC 91 in support of his submissions.

10. On careful perusal of record, it is revealed that the most of the issues raised by the accused, particularly regarding Doctrone of Speciality (Section 21 of The Extradition Act), findings of the UN HRC WGAD, absence of the ingredients of the alleged offences, double jeopardy etc were analyzed in detail by the Hon'ble High Court of Delhi in the order dated 11.03.2022 on bail application no. 2586/2025 filed by the present accused. The issues raised by the accused were answered and allegations were negated.

11. Thereafter, all such issues were again considered by the Hon'ble Supreme Court while deciding the SLP CrI. No. 4145/2022 vide order dated 07.02.2023. Since the main issue raised now is for release of accused u/sec. 436A Cr.P.C, I deem it appropriate to refer to the observations given by the Hon'ble Supreme Court in order dated 07.02.2023 while dealing with the issue of applicability of section 436A Cr.P.C. The relevant observations run as under:-

***“1. Counsel appearing on behalf of petitioner relied on the provisions of Section 436A of the Code of Criminal Procedure 1973 in aid of the submission that the petitioner has completed half***

**of the maximum sentence and is, therefore, entitled to bail.**

**2. We are not inclined to accept the submission of the petitioner, The extradition decree in Dubai, on which the petitioner places reliance, provides as follows:**

**“Whereas the case is related to the extradition of Christian James Michael, British citizen, to the Indian authorities on charge of “misuse of occupation or position, money laundering, collusion, fraud, misappropriation and offering illegal gratification”. Whereas the merits of the extradition request are briefed in that the Indian authorities requested the UAE to extradite Christian James Michael, British citizen, on charge of misuse of position or job, money laundering, collusion, fraud, misappropriation and offering illegal gratification within the territory of the requesting country. An arrest warrant was issued by the court in the requesting state.”**

**(emphasis supplied)**

**3. The purport of the decree is to cover several offences which have been highlighted above. Counsel appearing on behalf of the petitioner has placed reliance on the extract from the extradition decree which contains a reference to the provisions of Sections 415, 420 and 120B of the Indian Penal Code 1860 and Section 8 of the Prevention of Corruption Act 1988.**

**4. The submission of the petitioner is that the unamended provision of the PC Act provided for imprisonment for a term which shall not be less than six months, but which may extend to five years. The provisions of Section 8 were initially amended by the Act 1 of 2014 and subsequently, substituted by Act 16 of 2018. It i has been**

**submitted that the maximum term of imprisonment for the offence under Section 420 IPC is seven years whereas under the unamended provisions of Section 8 of the PC Act, it was five years. Since the petitioner was arrested on 4 December 2018, it has been submitted that he has already undergone over four years and two months of under trial custody and bearing in mind the provisions of Section 436A of Cr.P.C, he is entitled to be released on bail on completing half the maximum term of imprisonment.**

**5. Section 436A provides as follows:**

**“436A. Maximum period for which an undertrial prisoner can be detained.-- Where a person has, during the period of investigation, inquiry or trial under this Code of an offence under any law (not being an offence for which the punishment of death has been specified as one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on his personal bond with or without sureties: Provided that the Court may, after hearing the Public Prosecutor and for reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail instead of the personal bond with or without sureties:**

**Provided further that no such person shall in any case be detained during the period of investigation, inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.**

***Explanation.-- In computing the period of detention under this section for granting bail, the period of detention passed due to delay in proceeding caused by the accused shall be excluded."***

**6** The first proviso to Section 436A stipulates that the Court may for reasons to be recorded in writing order the continued detention of the person for a period longer than one half of the maximum period of imprisonment specified for that offence or release him on bail instead of a personal bond with or without sureties.

**7.** Article 17 of the Extradition Treaty between India and UAE contains the following provision:

***"1. The person to be extradited shall not be tried or punished in the requesting State except for the offences for which his extradition is sought or for offences connected therewith, or offences committed after his extradition, If the characterisation of the offence is modified during the proceedings taken against the person extradited, he shall not be charged or tried, unless the ingredients of the offence in its new characterisation, permit extradition in conformity with the provisions of this Agreement.***

***2. If the person extradited had the liberty and means to leave the territory of the State to which he was extradited, and he did not leave within thirty days subsequent to his final release or left during that period, but voluntarily returned, he may be tried for the other offences."***

**8.** From the above extract, it is evident that the person to be extradited shall not be tried or punished in the requesting State except for the offences for which his extradition is sought or for

**offences connected therewith.**

**9. Section 21 of the Extradition Act 1962 is in the following terms:**

**“21. Accused or convicted person surrendered or returned by foreign State not to be tried for certain offences.- Whenever any person accused or convicted of an offence, which, if committed in India would be an extradition offence, is surrendered or returned by a foreign State, such person shall not, until he has been restored or has had an opportunity of returning to that State, be tried in India for an offence other than -**

- (a) the extradition offence in relation to which he was surrendered or returned; or**
- (b) any lesser offence disclosed by the facts proved for the purposes of securing his surrender or return other than an offence in relation to which an order for his surrender or return could not be lawfully made; or**
- (c) the offence in respect of which the foreign State has given its consent.”**

**10 In the present case, the extradition offences in relation to which the petitioner was returned appears from the text of the extradition decree of the Dubai authorities, which has been extracted earlier. The extradition decree has to be read together with the provisions of Article 17 of the India-UAE Extradition Treaty.**

**11 The CBI initially registered a regular case on 12 March 2013. The charge-sheet was submitted on 31 August 2017. The CBI has filed a supplementary charge-sheet on 17 September 2020. Further investigation under Section 173 (8) is stated to be in progress.**

**12 In the backdrop of the above discussion, it**



***has emerged before the court that the fundamental basis on which the petitioner has sought bail, namely, under the provisions of Section 436A, cannot be accepted as valid. Besides the provisions of Section 415 and 420 read with Section 120B IPC and Section 8 of the PC Act, the petitioner is alleged to have committed offences under Section 467 IPC which is punishable with upto life imprisonment. In this backdrop, the provisions of Section 436A would not stand attracted in the present case”.***

12. In the above case, the Hon'ble Supreme Court has already dealt with the issues raised now on behalf of accused Christian Michel James. The provisions of Article 17 of the extradition treaty and section 21 of the Extradition Act, 1962 were duly considered by the Hon'ble Apex Court and it was held that the plea of the accused that he was entitled to bail u/sec. 436A Cr.P.C cannot be accepted, as besides the provision of section 415 and 420 r/w section 120-B IPC and section 8 of the PC Act, the accused is alleged to have committed offences u/sec. 467 IPC, which is punishable upto life imprisonment.

13. Further, it is matter of record that all the issues which are raised now by the above accused including the issue pertaining to applicability of Doctrine of Speciality (Section 21 of the Extradition Act), non-availability of the extradition decree with the CBI, the report of UN HRC WGAD etc. were raised earlier by way of an application which was decided by the Ld. Predecessor vide order dated 23.02.2024. All the submissions made by the accused were duly

considered with reference to the judgment dated 07.02.2023 of Hon'ble Supreme Court in the above SLP (Crl) no. 4145/2022 and the judgment dated 11.03.2022 of Hon'ble High Court of Delhi in bail application no. 2586/2021.

14. While passing the order dated 23.02.2024, it was observed by the Ld. Predecessor that the observations made by the Hon'ble Superior Courts are binding upon this court. The relevant observations of the Ld. Predecessor are as under:-

***“9. In view of the said observations made by the Hon'ble Superior Courts, which are binding upon this court at this stage for the purpose of deciding the present application, though it is contended by Id. Counsel for the applicant/accused that it is written at the end of the order that nothing stated in the said order shall be considered to an expression on the merits of the case and shall have no bearing on the merits of the case.***

***10. No doubt, the same is written in para 59 of the said order, however, the same issue has been raised by Id. Counsel for the accused, which has already been dealt with at length by the Hon'ble High Court and the same is, therefore, very much binding upon this court for deciding the present application. In any case, once this issue has already been dealt by the Hon'ble High Court while deciding the earlier bail application of the accused, the accused cannot raise the same ground before this court i.e. the Trial Court again, as the same would be abuse of process of law. Therefore, the said contention has no force, the same is accordingly rejected.”***

15. Again, the issue pertaining to applicability of Section 436A Cr.P.C was considered by the Hon'ble High Court of Delhi in bail application no. 1338/2024 filed by the present accused only and following observations were given while passing the order dated 25.09.2024:-

***“10. The core argument raised by the petitioner in this case was that he could only be tried for the offence for which he had been extradited. However, this issue was addressed by the Apex Court in its order dated 07.02.2023 in S.L.P. (Crl) No. 4145/2022, where it was inter alia held that a person extradited should not be tried or punished in the requesting state except for the offences for which the extradition was sought or for offences connected thereto. The CBI contends that Section 467 IPC and the offence of conspiracy are connected to the offence for which the petitioner was extradited. The Apex Court observed that in addition to the provisions of Sections 415 and 420 read with Section 120B IPC and Section 8 of the Prevention of Corruption Act, the petitioner is also alleged to have committed offences under Section 467 IPC, which is punishable with up to life imprisonment. The applicability of Section 436A Cr.P.C has already been declined by the Apex Court in relation to the petitioner. Even if the second proviso of Section 436A is considered, it would not assist the petitioner, as Section 467 IPC entails life imprisonment”***

16. In light of above, it is clear that the issues raised by the accused Christian Michel James now, including the issue of his release u/sec. 436A Cr.P.C have already been considered by this court, by Hon'ble High Court and also by

the Hon'ble Apex Court as described above. It has been held in categorical terms that the plea of the accused that he is entitled to the benefit u/sec. 436A Cr.P.C cannot be accepted as besides the provisions of Section 415 & 420 r/w 120B IPC and section 8 of the PC Act, the accused is alleged to have committed offence u/sec. 467 IPC which is punishable upto life imprisonment. Considering the allegations u/sec. 467 IPC which entails life imprisonment, it cannot be said that the accused has already undergone the period of maximum punishment prescribed for the alleged offences. The question whether section 467 IPC is made out or not is to be decided at the relevant stage of framing of charges and it cannot be said at this stage that section 467 can not be attributed to the present accused. The judicial propriety does not allow this court to reconsider the above issues again and again when the Hon'ble Superior Courts have already given observations on the same.

17. With above observations, the request of the accused Christian Michel James for his release u/sec. 436A Cr.P.C stands declined.

18. Put up on date already fixed i.e. **12.09.2025** for the purpose already fixed.

**(SANJAY JINDAL)**  
**Special Judge (PC Act) (CBI)-10**  
**Rouse Avenue Courts Complex**  
**New Delhi/07.08.2025**