

(2014) 11 DEL CK 0365
In the Delhi High Court
Case No : Crl. M.C. No. 5054 of 2014

Om Prakash Sharma

APPELLANT

Vs

Central Bureau of Investigation (CBI)

RESPONDENT

Date of Decision : 11-11-2014

Acts Referred:

Citation : (2015) 1 JCC 209

Hon'ble Judges : Sudershan Kumar Misra, J

Bench : Single Bench

Advocate : Rajshekhar Rao, Hitesh Rai and Arshdeep Singh, Advocates for the Appellant; Narender Mann, Spl. PP for CBI, Manoj Pant and Utkarsha Kohli, Advocates and IO/Insp. G.M. Rathi, CBI, Advocates for the Respondent

Judgement

Sudershan Kumar Misra, J.

Crl. M.A. No. 17304/2014 (for exemption)

Exemption, as prayed for, is allowed, subject to all just exceptions.

The application stands disposed off.

Crl. M.C. 5054/2014 and Crl. M.A. 17303/2014 (for stay)

1. The only grievance raised by the petitioner is with regard to the impugned decision of the Court below to secure his presence after taking cognizance qua him by way of non-bailable warrants on a conclusion which was framed by the learned Trial Court as follows:--

"Keeping in view the nature of offences and the manner in which the same have been committed and keeping in view the profile of each of these accused persons, NBWs are required to be issued against them."

It is, inter alia, contended that, admittedly, the petitioner has admittedly actively cooperated with the Investigating Agency at all stages and has been continuously available. Not only that, the prosecution has reposed enough confidence in the

petitioner to elite him as a witness in the supplementary charge sheet and, therefore, at least, in the first instance there was nothing to suggest recourse to the more coercive process of non-bailable warrants to secure his presence before the Court.

2. Counsel for the petitioner further undertakes that the petitioner shall present himself in the Court below on 24th November, 2014, on which date the matter is stated to be posted.

3. Issue notice. Mr. Narender Mann, Advocate enters appearance and accepts notice on behalf of the respondent/CBL He states that looking to the undertaking of the counsel for the petitioner to the effect that the petitioner shall appear before the Court below on 24th November, 2014, he has no objection if the non-bailable warrants issued by the Court below to secure the presence of the petitioner before the Court on that date are re-called.

4. The statement of counsel for the petitioner is accepted by this Court and it is ordered accordingly.

5. It is made clear that it shall be open to the petitioner to seek bail on his appearance from the Court below which shall consider any such request as per law.

6. It is further made clear that no opinion is being expressed on any other aspect of the matter or the merits thereof. It is also made clear that all rights accruing to the petitioner in terms of the Code of Criminal Procedure, 1973, including, inter alia, the right to seek anticipatory bail, as also set down by numerous decisions, shall remain intact.

7. The petition and the pending application are disposed off accordingly. A copy of this order be given dasti under the signatures of the Court Master.