



2024:DHC:5795



* IN THE HIGH COURT OF DELHI AT NEW DELHI

%

*Reserved on: 29th July, 2024
Pronounced on: 5th August, 2024*

+

BAIL APPLN. 2285/2024

SH. ARVIND KEJRIWAL

AGED ABOUT 54 YEARS

S/O SH. G.R. KEJRIWAL

R/O 6, FLAGSTAFF ROAD, CIVIL LINES

NEW DELHI-110054

THROUGH PAIROKAR SUNITA KEJRIWAL

....Petitioner

Through: Dr. Abhishek Manu Singhvi, Senior Advocate, Mr. N. Hariharan & Mr. Ramesh Gupta, Mr. Vikram Chaudhary, Senior Advocates with Mr. Vivek Jain, Mohd. Irshad, Mr. Rajat Bhardwaj, Mr. Amit Bhandari, Mr. Karan Sharma, Mr. Rajat Jain, Mr. Sadiq Noor, Mr. Rishikesh Kumar, Mr. Kaustubh Khanna, Mr. Mohit Swiach, Mr. Kunal Raj, Ms. Punya Rekha Anagra, Mr. Sharian Mukherjee & Mr. Aman Akhtar, Advocates.

versus

CENTRAL BUREAU OF INVESTIGATION

THROUGH DIRECTOR

6TH FLOOR, LODHI ROAD, PLOT NO. 5-B,

CGO COMPLEX, NEW DELHI,

DELHI-110003

...Respondent

Through: Mr. D.P. Singh, SPP with Mr. Manu Mishra & Ms. Shreya Dutt, Mr. Imaan Khera and Mr. Achal Mittal, Advocates with DSP Alok Shahi & ASP Rajiv Kumar, CBI.



CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

Bail Application No. 2285/2024 (under Section 439 of the CrPC filed on behalf of the applicant, Mr. Arvind Kejriwal, seeking Regular Bail in FIR No. RC0032022A0053 dated 17.08.2022 for offences punishable under Section 120-B read with 477A APC and Section 7 of the P.C. Act, 1988, registered by the respondent-CBI)

1. The Bail Application under Section 439 of the Code of Criminal Procedure (*hereinafter referred to as 'CrPC, 1973'*), has been filed on behalf of the applicant, Mr. Arvind Kejriwal, seeking Regular Bail in FIR No. RC0032022A0053 dated 17.08.2022, , registered by the respondent-CBI for the offences punishable under Section 120-B read with 477A APC and Section 7 of the P.C. Act, 1988.
2. At the outset, learned Special Prosecutor has submitted that the Charge Sheet has been filed in the Court on 29.07.2024 and the proprietary demands that this Bail Application be first considered by the learned Special Judge. It is submitted that there are voluminous records not only pertaining to the petitioner but to the other co-accused in this conspiracy under Section 120B, which cannot be appreciated dehors the other records, pertaining to other co-accused. It is further submitted that it may not be possible to bring forth the entire circumstances in this Bail Application in the first instance before this Court as the entire records is available with the Special Judge. This Bail Application be first adjudicated by the learned Special Judge.
3. *Learned Senior Advocate* on behalf of the petitioner, has vehemently



opposed this request and has submitted that the law recognizes concurrent jurisdiction of the trial court and this Court to consider the Bail Application. There is nothing which prevents this Court to hear the Bail Application in the first instance, and in fact, it is the petitioner, who is willing to forego his first step of the ladder and suffer the consequences of missing out the option of filing the Bail Application, before the trial court in the first instance. Reference has been made to the decisions of Dr. (Mrs.) Roshan Sam Boyce vs. B.R.Cotton Mills Ltd. And others, Civil Appeal No. 1778 of 1990 (SC); Sundeep Kumar Bafna vs. State of Maharashtra, (2014) 16 SCC 623; Barun Chandra Thakur vs. Central Bureau of Investigation & others, 2018 (12) SCC 119; Onkar Nath Agarwal & Ors. Vs. State, 1976 SCC OnLine All; Mohan Lal vs. Prem Chand, 1980 SCC OnLine HP 36; Y. Chendrasekhara Rao & others vs. Y.V. Kamala Kumari & others, 1993 Cr.L.J. 3508; Balan vs. State of Kerala, 2003 SCC OnLine Ker 455; Mubarik & Anr. vs. State of Uttarakhand & Ors., Criminal Writ Petition No. 2059 of 2018; Prabir Purkayastha vs. State (NCT of Delhi), 2024 INSC 414; Santosh vs. State of Maharashtra, (2017) 9 SCC 714; Pankaj Bansal vs. Union of India, 2023 SCC OnLine SC 1244; Arnesh Kumar vs. State of Bihar, (2014) 8 SCC 273; Satender Kumar Antil vs. Central Bureau of Investigation, (2022) 10 SCC 51; P.Chidambaram vs. Directorate of Enforcement, (2020) 13 SCC 791 (3JB); Gurcharan Singh vs. State (Delhi Administration), (1978) 1 SCC 118; Sunder Singh Bhati vs. State, (2022) SCC OnLine Del 134; Sanjay Chandra vs. CBI, (2012) 1 SCC 40; Ashok Sagar vs. State, 2018 SCC OnLine Del 9548; Kanumuri Raghurama Krishnam Raju vs. State of A.P., (2021) 13 SCC 822; Shri Gaurav Jain vs. State, Bail Application 1972 of 2018 (DHC); Dr. Rajendra Singh and Others vs. State of Maharashtra, 2022 SCC



2024:DHC:5795



OnLine Bom 11312; Nagaraj s/o Sambaji Kadam vs. State of Karnataka, (2021) CRL No. 101231/2019 (Karnataka HC); Ikram vs. State of U.P. and CRL. BAIL APP. No. 19609/2020.

4. ***Submissions Heard.***

5. Though there is no quarrel about the proposition that the District Courts and this Court have concurrent jurisdiction, as has been held in the Judgments relied on behalf of the petitioner, but at the same time it has been held time and again by the Apex Court that the Party must first approach the Court of first instance.

6. In the present case, it is more in the benefit of the petitioner, considering the complexity and the web of the facts and the material on record, to comprehensively determine the role of the petitioner in this alleged conspiracy to determine if he is entitled to bail. It may also be noted that when the Bail Application was filed before this Court, the Charge-Sheet had not been filed. However, in the changed circumstances, when the Charge-Sheet has already got filed before the learned Special Judge, it would be in the benefit of the petitioner, to first approach the Court of Sessions Judge.

7. In these circumstances, this Bail Application is hereby disposed of with the liberty to the petitioner to approach the learned Special Judge for regular Bail.

**(NEENA BANSAL KRISHNA)
JUDGE**

AUGUST 05, 2024
S.Sharma/RS