

Directorate of Enforcement
vs.
Sandeep Singh Madhok and Satinder Singh Madhok
ECIR/DLZO-I/15/2021

10.09.2021

Today two applications both filed by Directorate of Enforcement seeking further remand of 09 days of accused Sandeep Singh Madhok and Satinder Singh Madhok to ED custody have been taken up through Video Conferencing (Cisco Webex) in terms of office order no. Power Gaz/RACC/2021/18474-18559-C dated 21.08.2021 of Hon'ble High Court of Delhi, hosted by Reader of the Court Sh. Davinder Singh Bisht.

Present (on screen): Sh. Zoheb Hossain and Sh. Atul Sharma and, Ld. Special PPs for Directorate of Enforcement along with IO Assistant Director Mohit Godra along with accused Sandeep Singh Madhok and Satinder Singh Madhok.

Sh. Harsh Sethi on behalf of both the accused persons is also present.

This common order shall dispose of two applications filed by Directorate of Enforcement seeking further remand of 09 days of accused Sandeep Singh Madhok and Satinder Singh Madhok to ED custody. By way of applications, IO has requested for further remand of the accused persons Sandeep Singh Madhok and Satinder Singh Madhok to ED custody for a period of 09 days submitting therein that during interrogation the accused persons were confronted with documents and other facts of the case. Extraction of data from the digital devices was also not done and two mobile phones recovered from the residential premises of the accused persons are yet to be examined and data to be extracted. During the course of investigation, data was extracted from the digital devices and documents recovered during the search dated 02.09.2021 are being scrutinized. The digital data received recovered during the searches are voluminous and is being confronted with the accused persons. Further, the process of analysis of digital data and further confrontation of the same with the accused

persons and investigation regarding the financial transactions and various other suspicious chats with various persons is time consuming process. It is further submitted that 14 suspicious companies identified in Forensic Audit report belongs to Naresh Jain, Hawala Operator. The bank account statements of these shell companies were obtained and were analysed and it was ascertained that more than Rs. 1713 crores have been transferred to M/s Jay Polychem India Ltd. during 2010-2013 from these companies in multiple transactions. For this reason, investigation on certain crucial aspects of the case is still on going. The accused persons had been continuously hiding facts during the interrogation and only after confrontation with the digital data new facts are suspected to be emerged and that is why their further custody is required for the period of 09 days.

It has been further stated that non-cooperation of accused has only delayed the investigation further necessitating the need of custodial interrogation on certain crucial aspect of the case such as determination of role of various other persons and aides, to quantify the proceeds of crime pertaining to the bank transactions and linked accounts, confronting the accused persons with the voluminous evidence on record. It has been further stated that confrontation remained incomplete due to non-cooperative and evasive attitude of accused persons and for data being voluminous (around 9 mobiles phones, 2 hard disk, Pen Drives etc.), accused Sandeep Singh complaint's of Sleep Apnia necessitating medical tests in accordance with direction of the court consumed almost half of the custody period in medication/test.

Per contra, Sh. Harsh Sethi, Ld. Counsel for both the accused persons submit that this court has extended the ED custody twice but ED has not been able to complete the custodial interrogation. He further submits that accused Sandeep is almost continuously having blood pressure upto 202 which is very high besides accused also suffers from Sleep Apnia which blocks his breathing capability lowering oxygen supply and any more custody would be harmful to him. While referring the contents of application of Satinder he has contended that it has been alleged that an amount of Rs 1713.31 Crore has come to Jay Polychemicals from many companies mentioned in the application and such information has come from Forensic Audit reports belongs to

Naresh Jain Hawala Operator and thus it has been contended by Mr Setthi that investigation of that other case is being carried out from the accused persons for which purpose custody cannot be sought and thus he has objected to it strongly.

It has been noted that till date ED has not complied with order dt 07.09.2021 so far as court has asked it to comply with the provision of Section 157 CrPC. It has been submitted by Mr. Hussein that order dt 0.70.9.2021 was against the ratio laid down in **Virbhadra Singh v. ED** 2017 SCC Online 8930 and secondly there was no direction from the court to comply with Section 157 CrPC.

Virbhadra (supra) did not lay any restriction on the power of the court to seek compliance of provision of Section 157 CrPC. In the said case petitioner were denied to have advantage of non-compliance of the provision contained in Chapter XII CrPC. Suffice it to say that even if order dt 07.09.2021 was against the ratio of **Virbhadra**, then option available to ED was to challenge it before High Court and get it set aside or stayed. This Court does not have power to review its own order. Further, Mr. Hussain is wrong in contending that there was no direction to comply with Section 157 CrPC. This court in order dt 07.09.2021 clearly stated that “*ED is bound to follow the procedure of Section 157 CrPC if it wants to get the court exercised its jurisdiction under Section 167 CrPC., till the time such issues are not decided ED must follow the procedure as per CrPC in its entirety to the extent it is not inconsistent with PMLA*”. Thus, ED is clearly in disobedience of order dt 07.09.20201. Hence, another opportunity is granted to comply with same.

So far as application under Section 167(2) CrPC is concerned, keeping in mind the allegations contained in the application, the extent of involvement alleged and need for further confrontation with evidence, data in electronic materials etc. the accused persons is further remanded to the custody of ED for a period of 05 days. Accused persons shall be medically examined every day in the morning and in the evening during all the four three days period. Accused persons shall have right to have legal consultation for 20 minutes every day during the custody to ED and consultation

shall be taken place in the ED Office, Khan Market at 4:30 pm. The consultation shall be in the presence of IO or authorized person who shall stand at a distance out of audible limits.

Both the accused persons shall be produced before the Court on **15.09.2021 at 2:00 pm.**

Copy of this order be given dasti to the IO as well as to Ld. Counsel for the accused persons.

(Harish Kumar)
Special Judge (PC Act),
(CBI-20), Rouse Avenue Courts,
New Delhi/10.09.2021