2026:CGHC:23372

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MCRCA No. 468 of 2026

Order reserved on 27/04/2026

Order delivered on 15/05/2026

1 - Anil Tuteja S/o Late H. L Tuteja Aged About 62 Years R/o House No. 35 / 1396, Beside Farishta Nursing Home, Katora Talab, Civil Lines, District : Raipur, Chhattisgarh

... Applicant(s)

versus

1 - Central Bureau Of Investigation Through Superintendent Of Police, C B I, A C - I, New Delhi

... Non-applicant(s)

For Applicant(s)	**:**	Mr. Arshdeep Singh Khurana, Advocate (through VC) assisted by Mr. Shashank Kumar Mishra and Mr. Ankush Borkar, Advocate.
For Non-applicant(s)	**:**	Mr. Vaibhav A. Goverdhan, Advocate.

Hon'ble Shri Justice Ravindra Kumar Agrawal, J.

C.A.V. Order

1. This is the First Anticipatory bail application of the applicant Anil Tuteja, under Section 482 of the Bhartiya Nagarik Suraksha Sanhita, 2023, apprehending his arrest in the offence of Crime Number **RC2162025A0006** dated 16-04-2025, registered at Central Bureau of Investigation, New Delhi, (hereinafter called as "**CBI**") for the offence punishable under sections 182, 211, 193, 195-A, 166-A, 120-B of the

IPC, Section 7, 7A, 8 and 13(2) of the Prevention of Corruption Act, 1988 (as amended in the year 2018).

2. The instant anticipatory bail application is filed by the applicant directly to this Court as per the direction given by the Hon'ble Supreme Court by its order dated 09-03-2026, passed in Special Leave to Appeal (Crl.) No. 19892 of 2025, whereby the Hon'ble Supreme Court granted liberty to the applicant to approach this Court for grant of regular/anticipatory bail. As the case may be.

3. Brief facts of the case are that on 12.02.2015, the Anti-Corruption Bureau/ Economic Offence Wing, Raipur (in short "ACB/EOW"), registered an FIR of Crime No. 09/2015, against certain government officials of Nagarik Apurti Nigam, Chhattisgarh, Raipur (hereinafter called as "NAN") who were working in various districts at that time. The offence was registered under Section 109, 120-B of the IPC, Section 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988. The ACB/EOW filed charge sheet on 06-06-2015 in the NAN FIR, for the offence under Section 109, 120-B and 420 of the IPC, Section 11, 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988. The applicant was not named in the charge sheet submitted by the ACB/EOW. On 05-12-2018, the ACB/EOW filed a supplementary charge sheet in the said NAN FIR, naming the applicant, vide charge sheet No. 26A/2015.

4. On 09-01-2019, the Enforcement Directorate (hereinafter called as "ED") registered the ECIR/RPSZO/01/2019 under the Prevention of Money Laundering Act, 2002 (in short "PMLA 2002"), in which the applicant was an accused. In the said ECIR registered by the ED, the applicant was granted anticipatory bail by this Court vide order dated

29.04.2019, passed in MCrCA No. 1679/2018, on the ground that there is no direct evidence against the applicant. Thereafter, between the period of 27.02.2020 and 01.03.2020, the income tax department searched and seized the electronic devices from the beauty salon of the applicant's wife and the residential premises of the applicant. Vide order dated 18.03.2020, the applicant was granted interim protection from arrest in NAN ECIR by this Court, in an application filed under Section 438 of the Cr.P.C. The application of the applicant under Section 438 of the Cr.P.C. was finally allowed on 14.08.2020, in MCrCA No. 469/2020. Against the grant of anticipatory bail to the applicant, the ED has filed the SLP (Crl.) No. 6323-24/2020 before the Hon'ble Supreme Court. The said SLP was listed before the Hon'ble Supreme Court on 09.07.2024, and time was extended to file an affidavit by the ED as they have pleaded that the applicant misused the anticipatory bail granted to him, and thereafter, the affidavit was filed on 25.09.2024. In the said affidavit, four scams, i.e. Custom Rice Milling Scam, Coal Scam, Mahadev Scam and DMF Scam, were alleged. Out of these four scams, the applicant was granted bail in two scams, i.e. Custom Rice Milling and DMF Scam.

5. Thereafter, on the WhatsApp chats of the mobile phone of the applicant during the search by the Income Tax department, the ED sought cancellation of the anticipatory bail granted to him in NAN ECIR. The ACB/EOW registered another FIR against the applicant Anil Tuteja and other accused persons on 04.11.2024, vide Crime No. 49/2024, for the offences under Sections 7, 7A, 8 and 13(2) of the Prevention of Corruption Act, 1988, Sections 182, 211, 193, 195A, 166A and 120-B of the IPC. This FIR was transferred to CBI by the State Government of

Chhattisgarh, in exercise of powers under Section 6 of the Delhi Police Establishment Act, 1946. On 16.04.2025, the CBI registered the Crime No. **RC2162025A0006** under Sections 7, 7A, 8 and 13(2) of the Prevention of Corruption Act, 1988, Sections 182, 211, 193, 195A, 166A and 120-B of the IPC.

6. Since various FIRs have been registered by the State Police, ED, ACB/EOW, Raipur, the applicant approached the Hon'ble Supreme Court by filing SLP (Crl.) No. 19892/2025 claiming protection against any further arrest or coercive action in connection with various FIRs, including the FIR of Crime No. **RC2162025A0006** registered by the CBI, under Sections 7, 7A, 8 and 13(2) of the Prevention of Corruption Act, 1988, Sections 182, 211, 193, 195A, 166A and 120-B of the IPC. In the SLP (Crl.) No. 19892/2025, the Hon'ble Supreme Court passed an order on 09-03-2026 by which the SLP is disposed of with liberty to the applicant to approach the High Court for the grant of regular/anticipatory bail, as the case may be. Hence, this anticipatory bail application was directly filed before this Court.

7. Learned counsel for the applicant would submit that the applicant is a retired IAS officer and served 34 years as a Civil Servant in the State of Chhattisgarh. He retired from the post of Joint Secretary, Department of Commerce and Industries, Chhattisgarh, in May 2023. On the behest of the ruling party, numerous FIRs have been registered against the applicant by local police, ED, ACB/EOW and CBI. For the last 10 years, he has been facing litigation initiated by different investigation agencies. He would further argue that the investigating agencies, having failed to justify indefinite custody in any single case, have resorted to successive and overlapping arrests by reviving stale

allegations pertaining to alleged scams dating back to the period 2019–2023, including the Custom Rice Milling Scam, Coal Scam, Mahadev Online Betting Scam and DMF Scam, solely with the object of perpetuating the Applicant's incarceration. It is contended that, although these FIRs were registered as far back as January, 2024, active steps for arrest were initiated only after a lapse of nearly 1.5 to 2 years and significantly at stages when the Applicant was on the verge of securing bail in previously instituted cases, thereby demonstrating a deliberate attempt to "evergreen" custody. He would further submit that the present FIR came to the knowledge of the applicant only when the State of Chhattisgarh filed its affidavit before the Hon'ble Supreme Court on 06.11.2024 in SLP (Crl.) No. 6323/2020. In the said FIR of Crime No. **RC2162025A0006** registered by the CBI, the co-accused S.C. Verma, has been granted anticipatory bail vide order dated 28-02-2025, passed in SLP (Crl.) No. 2400/2025. He would also submit that the investigation of the WhatsApp chats FIR (Crime No. 49/2024 registered by ACB/EOW) was transferred to the CBI in December 2024, whereas the CBI registered the offence on 16-04-2025. Just before the day, the applicant was granted bail by the Hon'ble Supreme Court in ECIR/RPZO/04/2024 (Liquor Scam Case).

8. Considering the various FIRs registered by the State Police, ED, ACB/EOW, Raipur, the applicant approached the Hon'ble Supreme Court by filing SLP (Crl.) No. 19892/2025 claiming protection against any further arrest or coercive action in connection with various FIRs, including the FIR of Crime No. **RC2162025A0006** registered by the CBI, under Sections 7, 7A, 8 and 13(2) of the Prevention of Corruption Act, 1988, Sections 182, 211, 193, 195A, 166A and 120-B of the IPC.

In the SLP (Crl.) No. 19892/2025, the Hon'ble Supreme Court passed an order on 09-03-2026 by which the SLP is disposed of with liberty to the applicant to approach the High Court for the grant of regular/anticipatory bail, as the case may be. Hence, this anticipatory bail application was directly filed before this Court.

9. He would further submit that in the present case, false implication is founded upon conjectures, assumptions and politically motivated allegations, without there being any legally admissible material connecting the Applicant with the alleged offences. Even a bare reading of the FIR would demonstrate that no specific overt act has been attributed to the Applicant, and the allegations are vague, omnibus and speculative in nature. It has been submitted that the FIR merely alleges that the Applicant and one Alok Shukla were "powerful officers" who allegedly exercised influence over appointments and transfers in the State of Chhattisgarh; however, no particulars whatsoever have been furnished regarding any illegal act, unlawful gain, abuse of official position or specific transaction attributable to the Applicant. It has further been argued that the allegation regarding conspiracy with the then Advocate General is wholly baseless and inherently improbable since the Applicant had already been granted anticipatory bail in the NAN case vide order dated 29.04.2019, whereas the then Advocate General was appointed only on 01.06.2019, i.e., nearly one and a half months thereafter. Thus, the very foundation of the allegation stands falsified from the admitted dates and circumstances on record. It has also been argued that the said anticipatory bail order was never challenged by the investigating agency, and no judicial forum has ever recorded any adverse

observation regarding the grant of such bail. Learned counsel further submitted that merely availing legal remedies available under law, including seeking anticipatory bail in proceedings initiated by the Directorate of Enforcement in ECIR No. RPZO/01/2019 cannot constitute a criminal conspiracy or illegal act.

10. It has further been argued that the allegation regarding influencing witnesses in Crime No. 9/2015 (NAN Case) is entirely unsupported by any material. Learned counsel submitted that the charge-sheet in the NAN case had already been filed in June 2015, and by the time the applicant was arrayed as an accused through a supplementary charge-sheet dated 05.12.2018, more than 50 prosecution witnesses had already been examined before the learned Special Court, and several witnesses had already turned hostile before the implication of the applicant. It has been specifically contended that neither the FIR nor the case diary discloses the name of any witness who was allegedly influenced by the applicant, nor has any such witness stated before the investigating agency that the applicant ever attempted to contact, threaten or induce him directly or indirectly. It has also been submitted that there is absolutely no material to show that the applicant either accepted any bribe, paid any illegal gratification to a public servant or induced any person to fabricate evidence or make false statements.

11. Learned counsel for the applicant further argued that the said chats were allegedly extracted from mobile devices purportedly seized during the Income Tax raids conducted in February 2020; however, the very process of seizure, preservation and extraction of electronic data suffers from glaring illegalities and serious procedural lapses. Learned counsel submitted that the search warrant itself was not issued in the

name of the applicant and therefore the seizure of his personal digital devices was without lawful authority. It was further argued that, astonishingly, the alleged data extraction onto a hard disk was carried out on 28.02.2020, whereas the devices themselves were shown to have been formally seized only on 29.02.2020, thereby rendering the entire process inherently suspicious and suggestive of possible tampering and planting of fabricated material. Learned counsel further contended that mandatory safeguards governing electronic evidence, including compliance with Section 65B of the Indian Evidence Act and recording of hash values, were not followed in respect of the Redmi (MI) mobile phone allegedly belonging to the applicant, from which crucial chats are now sought to be relied upon. It has been argued that hash values constitute the digital fingerprint of an electronic device and any alteration therein completely undermines the authenticity and integrity of the electronic record. Non-recording or alteration of hash values renders the alleged electronic material legally suspect and inadmissible. Learned counsel further pointed out that the hash values of the seized devices had materially changed over time, clearly demonstrating that the devices were accessed or altered after seizure, thereby completely breaking the chain of custody and destroying the sanctity of the alleged electronic evidence. It was also submitted that there are serious discrepancies regarding the identity of the devices themselves, since the device allegedly seized under the Panchnama and the device from which chats were allegedly extracted are described as different models without any IMEI correlation.

12. Learned counsel for the applicant further argued that the entire case of the prosecution rests substantially upon certain WhatsApp chats, which

by themselves do not constitute substantive evidence in the eyes of the law unless duly authenticated and corroborated by independent material. Reliance has been placed upon settled judicial principles laid down by the Hon'ble Supreme Court and various High Courts to contend that electronic communications, particularly WhatsApp chats, are inherently susceptible to manipulation and subjective interpretation and cannot be made the sole basis for depriving a person of liberty. It has been submitted that no direct or circumstantial evidence has been collected by the investigating agency to connect the Applicant with the alleged offences apart from such chats. It has also been emphasized that despite the allegations levelled against the Applicant, he has admittedly not been interrogated by either the ACB/EOW or the CBI to date, which itself clearly demonstrates that custodial interrogation is neither necessary nor warranted. Learned counsel lastly submitted that even in the reply filed by the CBI before the Hon'ble Supreme Court in SLP (Crl.) No. 19892/2025, no categorical assertion has been made that custodial interrogation of the Applicant is required. On the strength of the aforesaid submissions and parity with respect to the grant of anticipatory bail to the then Advocate General by the Hon'ble Supreme Court, it has been prayed that the Applicant, being a permanent resident, having deep roots in society, and there being no possibility of absconding or tampering with evidence, deserves to be enlarged on anticipatory bail.

13. Learned counsel appearing for the CBI opposed the bail application and submitted that the allegations against the Applicant are grave and disclose a deep-rooted criminal conspiracy involving abuse of official position, interference with investigation and manipulation of judicial

proceedings. It is argued that the Government of Chhattisgarh, upon finding the matter to be of serious public importance, had recommended investigation by the Central Bureau of Investigation and accordingly granted consent under Section 6 of the Delhi Special Police Establishment Act vide Notifications dated 02.12.2024 and 06.02.2025, pursuant to which the Government of India, Department of Personnel & Training, extended the jurisdiction of the DSPE to the State of Chhattisgarh vide Notification dated 08.04.2025. Consequently, FIR No.49/2024 registered at Police Station State Economic Offences Investigation Bureau, Chhattisgarh was re-registered by the CBI as RC2162025A0006 dated 16.04.2025 for offences punishable under Sections 120-B, 166A, 182, 193, 195A and 211 of the IPC along with Sections 7, 7A, 8 and 13(2) of the Prevention of Corruption Act, 1988 against the present Applicant Anil Tuteja, Alok Shukla and Satish Chandra Verma, the then Advocate General of the State. The FIR reveals that the accused persons, while holding high public offices, abused their official positions to influence proceedings arising out of FIR No.09/2015 (NAN Case) and attempted to obstruct and frustrate proceedings initiated by the Directorate of Enforcement in ECIR/RPSZO/01/2019. It is further submitted that digital evidence seized by the Income Tax Department during search proceedings under Section 132(1) of the Income Tax Act prima facie discloses continuous interaction of the accused persons with constitutional authorities and senior bureaucrats with the object of influencing pending proceedings and securing undue advantage in criminal cases pending against them.

14. Learned counsel for the CBI further submitted that the investigation has revealed that during the years 2019 and 2020, the Applicant and co-accused Alok Shukla, while serving as public servants in the Government of Chhattisgarh, entered into a criminal conspiracy and extended undue and inappropriate benefits to Satish Chandra Verma, the then Advocate General, with the intention of influencing the discharge of his public duties in an improper manner. It has been alleged that departmental and procedural records relating to senior officers posted in the Economic Offences Wing were manipulated, and official responses proposed to be filed before the Hon'ble High Court in connection with FIR No.09/2015 were altered to favour the accused persons and facilitate the grant of anticipatory bail in the Enforcement Directorate proceedings. The prosecution further alleged that attempts were also made to influence witnesses connected with the NAN case to change their statements. Learned counsel submitted that prior approval under Section 17-A of the Prevention of Corruption Act had already been obtained by the EOW/ACB before registration of the FIR, and therefore, the investigation is fully in accordance with law. It was further contended that the investigation is presently at a crucial stage; searches have already been conducted at the residential premises of the Applicant and co-accused after obtaining lawful search warrants, incriminating documents have been seized, and several material witnesses are yet to be examined.

15. It is further submitted that the present case has been registered strictly in accordance with law after due approval and based on material received from the ED under Section 66 of the PMLA 2002. It was contended that upon analysis of the documents and digital material

received from the ED, the ACB/EOW found prima facie commission of cognizable offences against the Applicant, Alok Shukla and Satish Chandra Verma, was registered and thereafter re-registered by the CBI as RC2162025A0006 dated 16.04.2025 after obtaining the requisite consent under Sections 5 and 6 of the DSPE Act. Learned counsel submitted that all statutory procedures and legal formalities, including prior approval under Section 17-A of the Prevention of Corruption Act, were duly complied with, and there is neither any mala fide intention nor abuse of process as alleged by the Applicant. It was further argued that the challenge raised by the applicant regarding admissibility or reliability of evidence pertains to the probative value of material collected during investigation, which can only be examined during trial and not at the stage of anticipatory bail. The respondent further denied allegations of harassment, arbitrariness and “evergreening of arrest”, contending that each criminal case against the applicant is based on separate and independent material requiring independent investigation. It was also submitted that the liberty granted by the Hon’ble Supreme Court in SLP (Crl.) No.19892/2025 merely permitted the Applicant to approach this Court and did not confer any protection from arrest or entitlement to anticipatory bail. Learned counsel emphasized that the investigation is still in progress, searches have been lawfully conducted after obtaining warrants from the competent Court, and if custodial interrogation becomes necessary, the CBI shall proceed strictly in accordance with law. Reliance was also placed upon the decision of the Hon’ble Supreme Court in ***Devinder Kumar Bansal v. State of Punjab*** (SLP Crl. No. 3247/2025, decided on 03.03.2025) to contend that anticipatory bail in corruption cases should be granted only in

exceptional circumstances and that the grant of protection at this stage may seriously prejudice and frustrate the ongoing investigation. According to the CBI, considering the nature and gravity of allegations, the influential position previously held by the applicant and the possibility of influencing witnesses or tampering with evidence, no case for the grant of bail is made out at this stage.

16. I have heard learned counsel for the parties, and have gone through the material annexed with the bail application.

17. Having heard learned counsel for the parties at length and upon perusal of the material available in the case diary, this Court finds that the allegations levelled against the applicant pertain to a serious and grave nature of offences involving alleged abuse of official position, interference in investigation and judicial proceedings, manipulation of official records and influencing of witnesses connected with FIR No.09/2015 (NAN Case) and proceedings initiated by the Directorate of Enforcement under the PMLA, 2002. Prima facie material collected during the investigation indicates that the applicant, while serving as a senior public servant in the State of Chhattisgarh, was allegedly in continuous contact with co-accused persons and other officials with the object of securing undue advantage in pending criminal proceedings. The record further reflects that the FIR initially registered by the ACB/EOW as Crime No.49/2024 was transferred to the CBI after due consent of the State Government under Section 6 of the DSPE Act and subsequent notification issued by the Central Government under Section 5 of the DSPE Act. At this stage, the contention of the applicant regarding mala fide intention, political vendetta and abuse of process cannot be conclusively examined, particularly when the investigation is

still in progress and the investigating agency claims to have collected incriminating material against the applicant.

18. So far as the contention raised by the applicant regarding the legality, admissibility and alleged tampering of WhatsApp chats and electronic evidence is concerned, this Court is of the considered view that such issues relate to the evidentiary value, authenticity and appreciation of material collected during investigation, which are matters to be adjudicated upon during the course of trial after evidence is led by the respective parties. At the stage of consideration of anticipatory bail, this Court is not expected to conduct a detailed examination of the probative value of the electronic evidence or record conclusive findings regarding compliance with Section 65-B of the Indian Evidence Act, preservation of hash values or alleged discrepancies in the chain of custody. These are disputed questions of fact requiring a detailed appreciation of evidence and expert examination, which cannot be conclusively determined in proceedings under Section 482 of the BNSS. Similarly, the plea of parity raised by the applicant based on anticipatory bail granted to co-accused Satish Chandra Verma also does not advance the case of the applicant since the role attributed to the present applicant stands on a different footing, considering his position as a senior administrative officer and the allegations specifically attributed to him in the FIR and case diary material.

19. The record further reflects that the investigation is presently at a crucial stage. Searches have already been conducted pursuant to lawful warrants, and incriminating documents are stated to have been seized by the investigating agency. The prosecution has specifically contended that several material witnesses are yet to be examined and

consequential investigative steps are still required to be undertaken. Considering the influential position previously held by the applicant in the State administration, the apprehension expressed by the prosecution regarding possible interference with the investigation or influence over witnesses cannot be said to be wholly unfounded at this stage. The Hon'ble Supreme Court in ***Devinder Kumar Bansal*** (supra) has observed that anticipatory bail in corruption-related offences involving abuse of public office is to be granted only in exceptional circumstances.

20. The Hon'ble Supreme Court in the case of ***Y.S. Jagan Mohan Reddy Vs. CBI***, reported in (2013) 7 SCC 439 has held in para 34 and 35 of its judgment that

> **"34. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.**
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> **35. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial,**

reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations.

21. Hon'ble Supreme Court in the case of *"**Vijay Madanlal Choudhary v. Union of India***", 2023 (12) SCC 1, has held that:

"300. Thus, it is well settled by the various decisions of this Court and policy of the State as also the view of international community that the offence of money-laundering is committed by an individual with a deliberate design with the motive to enhance his gains, disregarding the interests of nation and society as a whole and which by no stretch of imagination can be termed as offence of trivial nature. Thus, it is in the interest of the State that law enforcement agencies should be provided with a proportionate effective mechanism so as to deal with these types of offences as the wealth of the nation is to be safeguarded from these dreaded criminals. As discussed above, the conspiracy of money-laundering, which is a three-staged process, is hatched in secrecy and executed in darkness, thus, it becomes imperative for the State to frame such a stringent law, which not only punishes the offender

proportionately, but also helps in preventing the offence and creating a deterrent effect."

22. The record further reflects that the present FIR initially came to be registered as Crime No.49/2024 at Police Station ACB/EOW, Raipur on the basis of information shared by the Enforcement Directorate under Section 66(2) of the PMLA pursuant to ECIR No. ECIR/RPZO/01/2019. Thereafter, the investigation was transferred to the CBI by notifications issued under Sections 5 and 6 of the Delhi Special Police Establishment Act, 1946, and the same was re-registered as RC2162025A0006 dated 16.04.2025 for offences punishable under Sections 120-B, 166A, 182, 193, 195A and 211 of the IPC along with Sections 7, 7A, 8 and 13(2) of the Prevention of Corruption Act, 1988. The investigation is still in progress, and the prosecution has specifically contended that crucial aspects relating to digital evidence, financial trails, conspiracy linkages and the role of several persons, including public servants, are yet to be fully unearthed. The Court cannot lose sight of the fact that offences involving economic fraud, corruption and organized criminal conspiracy are generally committed in secrecy and require thorough investigation involving scrutiny of electronic devices, banking transactions and interlinked financial structures. At this stage, when the investigation is admittedly continuing, and the prosecution asserts that custodial interrogation may become necessary depending upon the evidence collected, this Court is of the considered opinion that the grant of anticipatory bail may adversely affect the course of investigation.

23. In the case of *“**Gurubaksh Singh Sibbia v. State of Punjab***” 1980 (2) SCC 565, the Hon’ble Supreme Court has held that:-

“31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting antici-patory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reason-able apprehension that witnesses will be tampered with and "the larger interests of the public or the State" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in The State

v. Captain Jagjit Singh, AIR 1962 SC 253 which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the indi-vidual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.

32. A word of caution may perhaps be necessary in the the consideration whether the applicant is likely to abscond. evaluation of There can be no presumption that the wealthy and the mighty will submit themselves to trial and that the humble and the poor will run away from the course of justice, any more than there can be a presumption that the former are not likely to commit a crime and the latter are more likely to commit it. In his charge to the grand jury at Salisbury Assizes, 1899 (to which Krishna Iyer, J. has referred in Gudikanti[1]), Lord Russel of Killowen said: (SCC p. 243, para 5)

> **……..it was the duty of magistrates to admit accused persons to bail, wherever practicable, unless there were strong grounds for supposing that such persons would not appear to take their trial. It was not the poorer classes who**

did not appear, for their circumstances were such the to tie them to the place where they carried on their work. They had the golden wings with which to fly from justice.

This, incidentally, will serve to show how no hard and fast rules can be laid down in discretionary matters like the grant or refusal of bail, whether anticipatory or otherwise. No such rules can be laid down for the simple reason that a circumstance which, in a given case, turns out to be conclusive, may have no more than ordinary signification another case.

33. We would, therefore, prefer to leave the High Court and the Court of Session to exercise their jurisdiction under Section 438 by a wise and careful use of their discretion which, by their long training and experience, they are ideally suited to do. The ends of justice will be better served by trusting these courts to act objectively and in consonance with principles governing the grant of bail which are recognised over the years, than by divesting them of their discretion which the legislature has conferred upon them, by laying down inflexible rules of general application. It is customary, almost chronic, to take a statute as one finds it on the ground that, after all, "the legislature in its wisdom" has thought it fit to use a particular expression. A convention may usefully grow whereby the High Court and the Court of Session may be trusted to exercise their discretionary powers in their wisdom,

especially when the discretion is entrusted to their care by the legislature in its wisdom. If they err, they are liable to be corrected.

34. This should be the end of the matter, but it is necessary to clarify a few points which have given rise to certain misgivings.

35. Section 438(1) of the Code lays down a condition which has to be satisfied before anticipatory bail can be granted. The applicant must show that he has "reason to believe" that he may be arrested for a non-bailable offence. The use of the expression "reason to believe" shows that the belief that the applicant may be so arrested must be founded on reasonable grounds. Mere 'fear' is not 'belief', for which reason it is not enough for the applicant to show that he has some sort of a vague apprehension that some one is going to make an accusation against him, in pursuance of which he may be arrested. The grounds on which the belief of the applicant is based that he may be arrested for a non-bailable offence, must be capable of being examined by the court objectively, because it is then alone that the court can determine whether the applicant has reason to believe that he may be so arrested. Section 438(1), therefore, cannot be invoked on the basis of vague and general allegations, as if to arm oneself in perpetuity against a possible arrest. Otherwise, the number of applications for anticipatory bail will be as large as, at any rate, the adult populace. Anticipatory bail is a device to secure the individual's liberty; it is neither a passport to

the commission of crimes nor a shield against any and all kinds of accusations, likely or unlikely.

36. Secondly, if an application for anticipatory bail is made to the High Court or the Court of Session it must apply its own mind to the question and decide whether a case has been made out for granting such relief. It cannot leave the question for the decision of the Magistrate concerned under Section 437 of the Code, as and when an occasion arises. Such a course will defeat the very object of Section 438.

37. Thirdly, the filing of a first information report is not a condition precedent to the exercise of the power under Section 438. The imminence of a likely arrest founded on a reasonable belief can be shown to exist even if an FIR is not yet filed.

38. Fourthly, anticipatory bail can be granted even after an FIR is filed, so long as the applicant has not been arrested.

39. Fifthly, the provisions of Section 438 cannot be invoked after the arrest of the accused. The grant of "anticipatory bail" to an accused who is under arrest involves a contradiction in terms, insofar as the offence or offences for which he is arrested, are concerned. After arrest, the accused must seek his remedy under Section 437 or Section 439 of the Code, if he wants to be released on bail in respect of the offence or offences for which he is arrested.

40. We have said that there is one proposition formulated by the High Court with which we are inclined to agree. That is proposition (2). We agree that a 'blanket order of anticipatory bail should not generally be passed. This flows from the very language of the section which, as discussed above, requires the applicant to show that he has "reason to believe" that he may be arrested. A belief can be said to be founded on reasonable grounds only if there is something tangible to go by on the basis of which it can be said that the applicant's apprehension that he may be arrested is genuine. That is why, normally, a direction should not issue under Section 438(1) to the effect that the applicant shall be released on bail "whenever arrested for whichever offence whatsoever". That is what is meant by a 'blanket order' of anticipatory bail, an order which serves as a blanket to cover or protect any and every kind of allegedly unlawful activity, in fact any eventuality, likely or unlikely regarding which, no concrete information can possibly be had. The rationale of a direction under Section 438(1) is the belief of the applicant founded on reasonable grounds that he may be arrested for a non-bailable offence. It is unrealistic to expect the applicant to draw up his application with the meticulousness of a pleading in a civil case and such is not requirement of the section. But specific events and facts must be dis-closed by the applicant in order to enable the court to judge of the reasonableness of his belief, the

existence of which is the sine qua non of the exercise of power conferred by the section.

41. Apart from the fact that the very language of the statute compels this construction, there is an important principle involved in the insistence that facts, on the basis of which a direction under Section 438(1) is sought, must be clear and specific, not vague and general. It is only by the observance of that principle that a possible conflict between the right of an individual to his liberty and the right of the police to investigate into crimes reported to them can be avoided A blanket order of anticipatory bail is bound to cause serious interference with both the right and the duty of the police in the matter of investigation because, regardless of what kind of offence is alleged to have been committed by the applicant and when, an order of tail which comprehends allegedly unlawful activity of any description whatsoever, will prevent the police from arresting the applicant even if he commits, say, a murder in the presence of the public. Such an order can then become a charter of lawlessness and a weapon to stifle prompt investigation into offences which could not possibly be predicated when the order was passed. Therefore, the court which grants anticipatory bail must take care to specify the offence or offences in respect the order will be exercised in a vacuum."

24. In the case of *"**Sushila Aggarwal v. State (NCT of Delhi)**"*, 2020 (5) SCC 1, the Constitutional Bench of Hon'ble Supreme Court has held that:-

> **"35. Mr. Hiren Raval, learned amicus curiae, highlighted that while there are passages in Sibbia (supra), which support the arguments of the petitioners, that orders under Section 438 can be unconditional and not limited by time, the court equally struck a note of caution, and wished courts to be circumspect while making orders of anticipatory bail. In this regard, learned senior counsel highlighted paragraphs 42 and 43 of the decisions in Sibbia.**
>
> **36. Elaborating on his submissions, the amicus submitted that whether to impose any conditions or limit the order of anticipatory bail in point of time undoubtedly falls within the discretion of the court seized of the application. He however submitted that this discretion should be exercised with caution and circumspection. Counsel submitted that there could be three situations when anticipatory bail applications are to be considered: one, when the application is filed in anticipation of arrest, before filing FIR; two, after filing FIR, but before the filing of the charge sheet; and three, after filing charge sheet. It was submitted that as a matter of prudence and for good reasons, articulated in Salauddin, K.L. Verma, Adri Dharan Das and decisions adopting their reasoning, it would be salutary and in public interest for courts to**

impose time limits for the life of orders of anticipatory bail. Counsel submitted that if anticipatory bail is sought before filing of an FIR the courts should grant relief, limited till the point in time, when the FIR is filed. In the second situation, i.e. after the FIR is filed, the court may limit the grant of anticipatory bail till the point of time when a charge sheet is filed; in the third situation, if the application is made after filing the charge sheet, it is up to the court, to grant or refuse it altogether, looking at the nature of the charge. Likewise, if arrest is apprehended, the court should consider the matter in an entirely discretionary manner, and impose such conditions as may be deemed appropriate.

37. Mr. Raval submitted that in every contingency, the court is not powerless after the grant of an order of anticipatory bail; it retains the discretion to revisit the matter if new material relevant to the issue, is discovered and placed on record before it. He highlighted Section 439(2) and argued that that provision exemplified the power of the court to modify its previous approach and even revoke altogether an earlier order granting anticipatory bail. It was submitted that the bar under Section 362 of the Code (against review of an order by a criminal court) is inapplicable to matters of anticipatory bail, given the nature and content of the power under Section 439(2).

38. Mr. Raval also submitted that power under Section 438 cannot be exercised to undermine any criminal investigation. He

highlighted the concern that an unconditional order of anticipatory bail, would be capable of misuse to claim immunity in a blanket manner, which was never the intent of Parliament. Counsel submitted that besides, the discretion of courts empowered to grant anticipatory bail should be understood as balancing the right to liberty and the public interest in a fair and objective investigation. Therefore, such orders should be so fashioned as to ensure that accused individuals co-operate during investigations and assist in the process of recovery of suspect or incriminating material, which they may lead the police to discover or recover and which is admissible, during the trial, per Section 27 of the Evidence Act. He submitted that if these concerns are taken into account, the declaration of law in Mhetre – particularly in Paras 122 and 123 that no condition can be imposed by court, in regard to applications for anticipatory bail, is erroneous; it is contrary to Para 42 and 43 of the declaration of law in Sibbia's case (supra). It was emphasized that ever since the decision in Salauddin and other subsequent judgments which followed it, the practise of courts generally was to impose conditions while granting anticipatory bail: especially conditions which required the applicant/ accused to apply for bail after 90 days, or surrender once the charge sheet was filed, and apply for regular bail. Counsel relied on Section 437(3) to say that the conditions spelt out in that provision are to be

considered, while granting anticipatory bail, by virtue of Section 438(2).

39. Mr. Tushar Mehta, learned Solicitor General and Mr. Vikramjit Banerjee, learned Additional Solicitor General, submitted that the decision in Mhetre (supra) is erroneous and should be overruled. It was submitted that though Section 438 does not per se pre-suppose imposition of conditions for grant of anticipatory bail, nevertheless, given Section 438(2) and Section 437(3), various factors must be taken into account. Whilst exercising power to grant (or refuse) a direction in the nature of anticipatory bail, the court is bound to strike a balance between the individual's right to personal freedom and the right of investigation of the police. For this purpose, in granting relief under Section 438(1), appropriate conditions can be imposed under Section 438(2) to ensure an unimpeded investigation. The object of imposing conditions is to avoid the possibility of the person or accused hampering investigation. Thus, any condition, which has no reference to the fairness or propriety of the investigation or trial, cannot be countenanced as permissible under the law. Consequently, courts should exercise their discretion in imposing conditions with care and restraint.

40. The law presumes an accused to be innocent till his guilt is proved. As a presumably innocent person, he is entitled to all the fundamental rights including the right to liberty guaranteed under Article 21 of the

Constitution. Counsel stated that at the same time, while granting anticipatory bail, the courts are expected to consider and keep in mind the nature and gravity of accusation, antecedents of the applicant, namely, about his previous involvement in such offence and the possibility of the applicant to flee from justice. It is also the duty of the Court to ascertain whether accusation has been made with the object of injuring or humiliating him by having him so arrested. It is needless to mention that the Courts are duty bound to impose appropriate conditions as provided under Section 438(2) of the Code.

41. The counsel argued that there is no substantial difference between Sections 438 and 439 of the Code as regards appreciation of the case while granting or refusing bail. Neither anticipatory bail nor regular bail, however, can be granted as a matter of rule. Being an extraordinary privilege, should be granted only in exceptional cases. The judicial discretion conferred upon the court must be properly exercised after proper application of mind to decide whether it is a fit case for grant of anticipatory bail. In this regard, counsel relied on Jai Prakash Singh v State of Bihar26. Counsel relied on 2012 (4) SCC 325 State of M.P. & Anr. v Ram Kishna Balothia & Anr. 27 where this court considered the nature of the right of anticipatory bail and observed that:

> **"7……We find it difficult to accept the contention that Section 438 of the Code of Criminal Procedure is an**

integral part of Article 21. In the first place, there was no provision similar to Section 438 in the old Code of Criminal Procedure.....Also anticipatory hail cannot he granted as a matter of right. It is essentially a statutory right conferred long after the coming into force of the Constitution. It cannot he considered as an essential ingredient of Article 21 of the Constitution. and its non- application to a certain special category of offences cannot he considered as violative of Article 21."

42. The decisions in Savitri Agarwal v. State of Maharashtra & Anr 28, and Sibbia were referred to, to argue that before granting an order of anticipatory bail, the court should be satisfied that the applicant seeking it has reason to believe that he is likely to be arrested for a non-bailable offence and that belief must be founded on reasonable grounds. Mere "fear" is not belief; it is insufficient for an applicant to show that he has some sort of vague apprehension that someone is going to accuse him, for committing an offence pursuant to which he may be arrested. An applicant's grounds on which he believes he may be arrested for a non-bailable offence, must be capable of examination by the Court objectively. Specific events and facts should be disclosed to enable the Court to judge of the reasonableness of his belief, the existence of which is the sine qua non of the exercise of power conferred by the Section. It was

pointed out that the provisions of Section 438 cannot be invoked after the arrest of the accused. After arrest, the accused must seek his remedy under Section 437 or Section 439 of the Code, if he wants to be released on bail in respect of the offence or offences for which he is arrested. The following passages in Savitri Agarwal (supra) were relied upon:

> **"24. While cautioning against imposition of unnecessary restrictions on the scope of the section, because, in its opinion, overgenerous infusion of constraints and conditions, which were not to be found in Section 438 of the Code, could make the provision constitutionally vulnerable, since the right of personal freedom, as enshrined in Article 21 of the Constitution, cannot be made to depend on compliance with unreasonable restrictions, the Constitution Bench laid down the following guidelines, which the courts are required to keep in mind while dealing with an application for grant of anticipatory bail:**
>
> *** * ***
>
> **(iv) No blanket order of bail should be passed and the court which grants anticipatory bail must take care to specify the offence or the offences in respect of which alone the order will be effective. While granting relief under Section 438(1) of the Code, appropriate**

conditions can be imposed under Section 438(2) so as to ensure an uninterrupted investigation. One such condition can even be that in the event of the police making out a case of a likely discovery under Section 27 of the Evidence Act, the person released on bail shall be liable to be taken in police custody for facilitating the recovery. Otherwise, such an order can become a charter of lawlessness and a weapon to stifle prompt investigation into offences which could not possible be predicated when the order was passed.

*** * ***

(ix) Though it is not necessary that the operation of an order passed under Section 438(1) of the Code be limited in point of time but the court may, if there are reasons for doing so, limit the operation of the order to a short period until after the filing of FIR in respect of the matter covered by the order. The applicant may, in such cases, be directed to obtain an order of bail under Section 437 or 439 of the Code within a reasonable short period after the filing of the FIR."

43. It was also argued on behalf of the Govt of NCT and the Union, that this court had expressed a serious concern, time and again, that if accused or applicants who seek anticipatory bail are equipped with an unconditional order before they are

interrogated by the police it would greatly harm the investigation and would impede the prospects of unearthing all the ramifications involved in a conspiracy. Public interest also would suffer as consequence. Reference was invited to State of A.P. v. Bimal Krishna Kundu29 in this context. Likewise, attention of the court was invited to Muraleedharan v. State of Kerala30 which held that

> **"7…...Custodial interrogation of such an accused is indispensably necessary for the investigating agency to unearth all the links involved in the criminal conspiracies committed by the person which ultimately led to the capital tragedy."**
>
> **It was highlighted that statements made during custodial interrogation are qualitatively more relevant to those made otherwise. Granting an unconditional order of anticipatory bail would therefore thwart a complete and objective investigation.**

44. Mr. Aman Lekhi, learned Additional Solicitor General, urged that the general drift of reasoning in Sibbia was not in favour of a generalized imposition of conditions- either as to the period (in terms of time, or in terms of a specific event, such as filing of charge sheet) limiting the grant of anticipatory bail. It was submitted that the text of Section 439(2) applied per se to all forms of orders- including an order or direction to release an applicant on bail (i.e. grant of anticipatory

bail), upon the court's satisfaction that it is necessary to do so. Such order (of cancellation, under Section 439(2) or direction to arrest) may made be where the conditions made applicable at the time of grant of relief, are violated or not complied with, or where the larger interests of a fair investigation necessitate it.

Analysis and Conclusions

Re Question No 1: Whether the protection granted to a person under Section 438, CrPC should be limited to a fixed period so as to enable the person to surrender before the Trial Court and seek regular bail.

45. The concept of bail, i.e. preserving the liberty of citizen – even accused of committing offences, but subject to conditions, dates back to antiquity. Justinian I in the collections of laws and interpretations which prevailed in his times, Codex Justinianus (or 'Code Jus') in Book 9 titled Title 3(2) stipulated that "no accused person shall under any circumstances, be confined in prison before he is convicted". The second example of a norm of the distant past is the Magna Carta which by clause 44 enacted that "people who live outside the forest need not in future appear before the Royal Justices of the forest in answer to the general summons unless they are actually involved in proceedings or are sureties for someone who has been seized for a forest offence." Clear Parliamentary recognition of bail took shape in later enactments in the UK

> **through the Habeas Corpus Act 1677 and the English Bill of Rights, 1689 which prescribed that "excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted".**
>
> **46. Bail ipso facto has not been defined under the Code. It is now widely recognized as a norm which includes the governing principles enabling the setting of accused person on liberty subject to safeguards, required to make sure that he is present whenever needed. The justification for bail (to one accused of commission or committing a crime is that it preserves a person who is under cloud of having transgressed law but not convicted for it, from the rigors of a detention."**

25. The principal contention advanced on behalf of the applicant is that he has not been named in the earlier FIRs, prosecution complaints or charge-sheets filed by the Enforcement Directorate and ACB/EOW and that his implication at this stage is mala fide and intended only to perpetuate his incarceration through successive arrests. However, merely because the applicant has not yet been arraigned as an accused in earlier proceedings does not ipso facto establish his innocence or disentitle the investigating agency from conducting further investigation if material subsequently surfaces regarding his involvement. The prosecution has categorically stated that during the course of investigation, the role of the present applicant has emerged as a suspect and that further investigation is being carried out regarding financial transactions, illegal protection money and conspiracy linkages. The allegations raised by the applicant regarding

political vendetta, fabricated implication and “evergreening of arrest” are matters requiring evidence and cannot be conclusively adjudicated at the stage of consideration of anticipatory bail. The material placed before this Court does not presently justify recording any finding that the investigation is wholly mala fide or that the proceedings are entirely without jurisdiction. Rather, the record demonstrates that multiple agencies, including the Enforcement Directorate, ACB/EOW and the CBI, have undertaken investigations into different aspects of the alleged scam over a considerable period of time. Therefore, at this preliminary stage, the Court is not inclined to accept the contention that the present proceedings are solely intended to harass the applicant.

26. This Court is also unable to accept the submission that the applicant is entitled to anticipatory bail on the ground of parity. The law is well settled that parity cannot be claimed in a mechanical manner, particularly in cases involving criminal conspiracy and economic offences, where the role attributed to each accused may stand on a different footing. The prosecution has specifically asserted that the role of the applicant is under active investigation and cannot be equated with that of other accused persons who may have been granted regular or anticipatory bail in separate proceedings. Similarly, the fact that searches conducted at the premises of the applicant have not yet resulted in the filing of a charge-sheet against him cannot, by itself, be treated as conclusive proof that no incriminating material exists against him. Investigation into economic offences often involves extensive examination of digital data, financial transactions and interlinked evidence spread across various jurisdictions and entities. At this stage, the Court cannot enter into a meticulous examination of the evidentiary

value of the material collected or record findings regarding the sufficiency thereof. The Court is only required to assess whether the allegations disclose a serious cognizable offence and whether custodial interrogation or unrestricted investigation may be necessary in the facts of the case.

27. It is equally significant to note that the offences alleged against the applicant are grave economic offences involving deep-rooted conspiracy, corruption and misuse of official position. The Hon'ble Supreme Court has consistently held that economic offences constitute a class apart and are required to be viewed seriously as they affect the economy and public confidence in the system. The prosecution has specifically contended that the applicant is an influential person having served in a high administrative capacity, and there exists a possibility of influencing witnesses, tampering with evidence and obstructing the investigation. The evidence in the present case is stated to be largely digital and financial in nature, susceptible to manipulation and concealment. In such circumstances, this Court is of the view that the grant of anticipatory bail at this juncture may impede a fair and effective investigation. The discretionary relief under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, cannot be granted as a matter of routine, particularly when serious allegations are under investigation.

28. In the case of *"**Devinder Kumar Bansal***" (supra), the Hon'ble Supreme Court has considered that:-

> **"21. The parameters for grant of anticipatory bail in a serious offence like corruption are required to be satisfied. Anticipatory bail can**

be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has been falsely enroped in the crime or the allegations are politically motivated or are frivolous. So far as the case at hand is concerned, it cannot be said that any exceptional circumstances have been made out by the petitioner-accused for grant of anticipatory bail and there is no frivolity in the prosecution.

22. In the aforesaid context, we may refer to a pronouncement in CBI v. V Vijay Sai Reddy, wherein this Court expressed thus: (SCC p. 465, para 34)

> **"34. While granting bail, the court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of the punishment which conviction will entail the character of the accused. circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the accused and that the prosecution**

will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt."

(emphasis in original and supplied)

23. The presumption of innocence, by itself, cannot be the sole consideration for grant of anticipatory bail. The presumption of innocence is one of the considerations, which the court should keep in mind while considering the plea for anticipatory bail. The salutary rule is to balance the gcause of the accused and the cause of public justice. Over solicitous homage to the accused's liberty can, sometimes, defeat the cause of public justice.

24. If liberty is to be denied to an accused to ensure corruption free society, then the courts should not hesitate in denying such liberty. Where overwhelming considerations in the nature aforesaid require denial of anticipatory bail, it has to be denied. It is altogether a different thing to say that to grant regular bail to a public servant accused of indulging in corruption.

25. Avarice is a common frailty of mankind and Robert Walpole's famous France fell because there was corruption without indignation. Corruption has, b liberty cannot last long." In more recent years, Romain Rolland lamented that centuries ago, it was Burke who cautioned: "Among a people generally corrupt, in it, very dangerous

potentialities. Corruption, a word of wide connotation has, the limited meaning of allowing decisions and actions to be influenced not by in respect of almost all the spheres of our day-to-day life, all the world over, the rights or wrongs of a case but by the prospects of monetary gains or other selfish considerations.

26. If even a fraction of what was the vox populi about the magnitude of c corruption to be true, then it would not be far removed from the truth, that it is the rampant corruption indulged in with impunity by highly placed persons that has led to economic unrest in this country. If one is asked to name one sole factor that effectively arrested the progress of our society to prosperity, undeniably it is corruption. If the society in a developing country faces a menace greater than even the one from the hired assassins to its law and order, then that is from the corrupt elements at the higher echelons of the Government and of the political parties.

27. In Manoj Narula v. Union of India, this Court held that corruption erodes the fundamental tenets of the rule of law and quoted with approval its judgment in Niranjan Hemchandra Sashittal v. State of Maharashtra 10 and held as under: (Manoj Narula case, SCC pp. 25-26, para 16)

> **"16. 26. It can be stated without any fear of contradiction that corruption is not to be judged by degree, for corruption mothers disorder, destroys societal will**

> **to progress, accelerates undeserved ambitions, kills the conscience, jettisons the glory of the institutions, paralyses the economic health of a country, corrodes the sense of civility and mars the marrows of governance. (Niranjan Hemchandra Sashittal case 10, SCC pp. 654-55, para 26)"**
>
> **(emphasis supplied)**

28. In Subramanian Swamy v. Manmohan Singh[11], this Court held as under: (SCC p. 100, para 68)

> **"68. Today, corruption in our country not only poses a grave danger to the concept of constitutional governance, it also threatens the very foundation of Indian democracy and the Rule of Law. The magnitude of corruption in our public life is incompatible with the concept of a socialist, secular democratic republic. It cannot be disputed that wherecorruption begins all rights end. Corruption devalues human rights, chokes that any anti-corruption law has to be interpreted and worked out in such a the core values in our preambular vision. Therefore, the duty of the court is fashion as to strengthen the fight against corruption." (emphasis supplied)**

29. In K.C. Sareen v. CB112, this Court observed thus: (SCC p. 589. para 12)

> **"12. Corruption by public servants has now reached a monstrous dimension in India. Its tentacles have started grappling even the institutions created for the protection of the republic. Unless those tentacles are intercepted and impeded from gripping the normal and orderly functioning of the public offices, through strong legislative, executive as well as judicial exercises the corrupt public servants could even paralyse the functioning of such institutions and thereby hinder the democratic polity."**
>
> **(emphasis supplied)**

30. While approving the judgment of Subramanian Swamy v. CB113. rendered by another Constitution Bench in Manoj Narula case, a Constitution Bench of this Court, dealing with rampant corruption, observed as under: (SCC pp. 26-27, paras 17-18)

> **"17. Recently, in Subramanian Swamy v. CB113, the Constitution Bench, speaking through R.M. Lodha, C.J., while declaring Section 6-A of the Delhi Special Police Establishment Act, 1946, which was inserted by Act 45 of 2003, as unconstitutional, has opined that: (SCC pp. 725-26, para 59)**
>
> **59. It seems to us that classification which is made in Section 6-A on the basis of status in the government service is not permissible under Article 14 as it defeats the purpose of finding**

prima facie truth into the allegations of graft, which amount to an offence under the PC Act, 1988. Can there be sound differentiation between corrupt public servants based on their status? Surely not, because irrespective of their status or position, corrupt public servants are corrupters of public power. The corrupt public servants, whether high or low, are birds of the same feather and must be confronted with the process of investigation and inquiry equally. Based on the position or status in service, no distinction can be made between public servants against whom there are allegations amounting to an offence under the PC Act, 1988.'

And thereafter, the larger Bench further said: (SCC p. 726, para 60)

'60. Corruption is an enemy of the nation and tracking down corrupt public servants and punishing such persons is a necessary mandate of the PC Act, 1988. It is difficult to justify the classificationwhich has been made in Section 6-A because the goal of law in the PC Act. 1988 is to meet corruption cases with a very strong hand and all public servants are warned through such a legislative measure that corrupt public servants have to face very serious consequences."

And again: (SCC pp. 730-31, paras 71-72)

71. Office of public power cannot be the workshop of personal gain. The probity in public life is of great importance. How can two public servants against whom there are allegations of corruption of graft or bribe-taking or criminal misconduct under the PC Act, 1988 b can be made to be treated differently because one happens to be a junior officer and the other, a senior decision maker.

72. Corruption is an enemy of nation and tracking down corrupt public servant, howsoever high he may be, and punishing such person is a necessary mandate under the PC Act, 1988. The status or position of public servant does not qualify such public servant from exemption from equal treatment. The decision-making power does not segregate corrupt officers into two classes as they are common crimedoers and have to be tracked down by the same process of inquiry and investigation.'

18. From the aforesaid authorities, it is clear as noonday that corruption d has the potentiality to destroy many a progressive aspect and it has acted as the formidable enemy of the nation." (emphasis supplied)

31. In *Neera Yadav v. CBI*[14], this Court observed thus: (SCC pp. 784-85. paras 59-61)

"59. Every country feels a constant longing for good governance, e is no longer a moral issue as it is linked with the search of wholesome righteous use of power and transparency in administration. Corruption fairly, free from corruption and nepotism. Corruption has spread its governance and the society's need for reassurance that the system functions to the growth of investment and development of the country. If the conduct f tentacles almost on all the key areas of the State and it is an impediment of administrative authorities is righteous and duties are performed in good faith with the vigilance and awareness that they are public trustees of people's rights, the issue of lack of accountability would themselves fade into insignificance.

60. To state the ubiquity of corruption, we may refer to the oft quoted words of Kautilya, which reads as under:

'Just as it is impossible not to taste the honey or the poison that finds itself at the tip of the tongue, so it is impossible for a government servant not to eat up, at least, a bit of the king's revenue. Just as fish moving under water cannot possibly be found out either as drinking or not drinking water, so government servants employed inthe government work cannot be found out (while) taking money (for themselves).

It is possible to mark the movements of birds flying high up in the sky; but not so is it possible to ascertain the movement of government servants of hidden purpose.'

[Ref: Kautilya's Arthasastra by R. Shamasastry, 2nd Edn., p. 77]

As pointed out by Paul H. Douglas in his book on "Ethics of Government". 'corruption was rife in British public life till a hundred years ago and in USA till the beginning of this century. Nor can it be claimed that it has been altogether eliminated anywhere."

(Ref: Santhanam Committee Report, 1962: Para 2.3)

61. Tackling corruption is going to be a priority task for the Government. The Government has been making constant efforts to deal with the problem of corruption. However, the constant legislative reforms and strict judicial actions have still not been able to completely uproot the deeply rooted evil of corruption. This is the area where the Government needs to be seen taking unrelenting, stern and uncompromising steps. Leaders should think of introducing good and effective leadership at the helm of affairs; only then benefits of liberalisation and various programmes, welfare schemes and programmes would reach the masses. Lack of awareness and supine

> **attitude of the public has all along been found to be to the advantage of the corrupt. Due to the uncontrolled spread of consumerism and fall in moral values, corruption has taken deep roots in the society. What is needed is a reawakening and recommitment to the basic values of tradition rooted in ancient and external wisdom. Unless people rise against bribery and corruption, society can never be rid of this disease. The people can collectively put off this evil by resisting corruption by any person, howsoever high he or she may be."**

29. Accordingly, having regard to the nature and gravity of the allegations, the magnitude of the alleged offence, the stage of investigation, the requirement of further probe into digital and financial evidence, and the possibility of interference with the investigation, this Court is not inclined to exercise its discretionary jurisdiction in favour of the applicant. This Court is of the considered opinion that the applicant has failed to make out a case warranting the grant of anticipatory bail.

30. Consequently, the present anticipatory bail application of the applicant **Anil Tuteja**, deserves to be and is accordingly **dismissed**.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Alok