

Suresh Kalmadi vs Cbi on 19 January, 2012

Author: Mukta Gupta

Bench: Mukta Gupta

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Reserved on: 10th January, 2012
Decided on: 19th January, 2012

+ BAIL APPLN. 1692 OF 2011
SURESH KALMADI

..... Petitioner
Through: Mr. Mukul Rohtagi, Mr. Sushil
Kumar, Mr. Sidharth Luthra, Sr.
Advocates with Mr. Hitesh Jain, Mr.
Sidharth Aggarwal, Ms. Sheyl Trehan,
Ms. Diya Kapur, Mr. Nikhil Pillai and
Mr. Aditya Wadhwa, Advocates.

versus

CBI

..... Respondents

Through: Mr. Dayan Krishnan and Mr. Gautam Narayan, Spl Counsels with Mr. Nikhil Menon, Advocate.

AND

+ BAIL APPLN. 1515 OF 2011
VISHWA KUMAR VERMA

..... Petitioner
Through: Mr. Neeraj Kishan Kaul, Sr. Advocate
with Mr. Anurabh Chowdhury, Mr.
Amit Sharma, Mr. Vaibhav Tomar,
Mr. Kapil Rustagi and Mr. Rakhim
Advocates.

versus

CBI

..... Respondents

Through: Mr. Dayan Krishnan and Mr. Gautam
Narayan, Spl Counsels with Mr.
Nikhil Menon, Advocate.

Coram:
HON'BLE MS. JUSTICE MUKTA GUPTA

1. By these petitions the Petitioners seek bail in case FIR bearing RC- DAI-2010-A-0044 for offence under Section 120B read with Sections 420/467/468/471 IPC and Section 13 (2) read with Section 13 (1) (d) of the Prevention of Corruption Act, 1988 (in short „PC Act).

2. Learned counsel for the Petitioner Suresh Kalmadi contends that the Petitioner was arrested on 24th April, 2011 and the charge sheet was filed on 20th May, 2011. All the offences alleged against the Petitioner are at the most punishable upto seven years except for offence under Section 467 IPC.

As per the allegations set out in the charge sheet no offence under Section 467 IPC is made out against the Petitioner. Further the allegation qua forgery relates to insertion of an advertisement wherein instead of the words "Timing, Scoring or/and Result", the words "Timing, Scoring and Result"

were used, the cost of which advertisement was only Rs.69,603/- which was not cleared by the Petitioner. There is no delay in the trial on account of the Petitioner. In fact after filing the charge sheet the CBI has twice filed applications as late as on 24th September, 2011 and 3rd November, 2011 for placing additional documents and further list of witnesses on record. The application dated 3rd November, 2011 has been allowed on the 4th January, 2012, and the matter is now listed for scrutiny. The allegations against the Petitioner are regarding procurement of the Time Scoring Results (TSR) and it is alleged that conditions were created so that the tender could be awarded only to the Swiss Timing Omega. According to learned counsel in fact the tender was not finalized by the organizing committee. In view of the complaints received, the matter was referred to the Central Government and the sub-committee of the Central Government consisting of senior Secretary level officers held that there was no illegality or irregularity in the procurement process and it would be appropriate to award the tender to Swiss Timing Omega. Relying on *Gurcharan Singh and others vs. State (Delhi Administration, 1978 (1) SCC 118* and *Sanjay Chandra vs. CBI, 2011(13) SCALE 107* it is contended that the gravity of the allegations have to be seen on the basis of the punishment prescribed by the Code and not by what the media reports. In *Sanjay Chandra (supra)* their Lordships granted bail even though the allegation was for offences under Section 409 read with 120B IPC, which is punishable upto life. Learned counsel further contends that a number of board meetings were held and as is evident from the board meeting dated 5th July, 2008 insistence was to procure from companies that had well established record. There is no denial that Swiss Timing Omega performed in the Olympics, Asian Games and Common Wealth Games. Further even in the Common Wealth Games 2010 there is no allegation that the timings, scoring or results were not excellent. The performance was of the best quality, which was appreciated by one and all. Referring to the notes of Mr. Jarnail Singh, Chief Executive Officer of the Common Wealth Games and Mr. V.K. Gautam, Chief Operating Officer it is contended that the notes prepared by these two officers also state that the selection of M/s Swiss Timing Omega was the correct decision in the situation. It is further contended that the medical condition of the Petitioner is that he has undergone aortic wall replacement in the year 2005 and thereafter he has been suffering from Cerebral Atrophy. He had strokes even while in the custody and once in such a situation he even received injuries. Thus the Petitioner be granted bail.

3. Learned counsel for Petitioner V.K. Verma contends that the order rejecting bail does not meet the standard of test laid down by the Hon'ble Supreme Court. The discretion has been exercised by the learned Trial Court in a casual manner. The Hon'ble Supreme Court in *Sanjay Chandra (Supra)* clearly held that merely stating

that there is an apprehension of witnesses being influenced is not sufficient. Some material should be placed on record to show that the witnesses are likely to be influenced. The other aspect of the Petitioner being influential so as to be in a position to influence the witnesses is that he has deep roots in the society. The aspect of the Petitioner having deep roots in the society thus there being no likelihood of his fleeing from justice has been ignored by the Trial Court. The allegations are essentially that the Petitioner along with other co-accused conspired to change the eligibility criteria so as to benefit the Swiss Timing Omega. The company Swiss Timing Ltd.(STL) enjoys a huge reputation worldwide.

Quality and reputation are not the issues raised. Criminal culpability cannot be attributed in case emphasis is on the quality. There is no allegation of any money trail or any pecuniary benefit to the Petitioner. In fact, the Petitioner himself forwarded a complaint for inquiry in view of the pseudonym complaints received. Reiterating the contentions raised on behalf of Petitioner Suresh Kalmadi, it is contended that even Jarnail Singh and V.K. Gautam in their notes stated that this was the best decision in the situation. On a note prepared by the Petitioner V.K. Verma the matter was referred to the Government for intense scrutiny. Even after the intense scrutiny the committee comprising of senior officers reiterated the decision to award tender to STL.

4. Learned counsel for the Petitioner V.K. Verma further submits that when the charge sheet was filed on 25th May, 2011, there was no mention about the statement of Jarnail Singh, CEO as a witness. When arguments on bail were heard on 1st June, 2011, CBI produced an ante dated statement of Jarnail Singh. In his statement, Jarnail Singh disowned his note and stated that the files were only routed through him. The contents of the letter and notes are not disputed and it is an admitted fact that meetings took place. The fact that Pan American Games were not considered by the Organizing Committee was for the reason that even in the past, Olympic Games never considered Pan American Games to be a qualifying event for consideration. Even though in the meetings Pan American Games was discussed, however ultimately it was unanimously decided in the presence of two prosecution witnesses that companies, who had experience of Common Wealth Games, Asian Games and Olympics games will only be considered. Though V.K. Gautam had sent a note of dissent, however, a perusal of the minutes of the meeting show that all these aspects were discussed and a unanimous decision was taken after everybody from the Government deliberated and decided thereon.

5. To counter the allegation of the prosecution that in the Request for Proposal (RFP) instead of words "Timing, Scoring or/and Result", the words "Timing, Scoring and Result" were used i.e. the word „or“ was deliberately deleted, it is contended that everybody consistently used the words "Timing, Scoring and Result". Even Sujit Panigrahi, who is now the prosecution witness recommended option-1 i.e. there should be one single supplier for Timing, Scoring and Result and recommended the STL. This was even recommended by Vijay Kumar Gautam, who is now the star witness of the prosecution. Even the advertisement issued by Vijay Kumar Gautam before the RFP, was for Timing, Score and Result. Reliance is placed on Court on its own motion v. CBI, 109 (2003) DLT 494 to contend that though there is no dispute to the proposition that the police has a power to arrest, however, the arrest should be effected only if there is a need to arrest. It was held that there is

a difference between the power of arrest and need to arrest. Relying upon *R. Vasudevan v. CBI*, 166 (2010) DLT 583 it is contended that being on high place in the society works as a double edged weapon, if it can be alleged that the accused can temper with the evidence and threaten the witnesses, it is also countered by the fact that the accused has roots in the society and thus there is no likelihood of absconding. Relying upon *Anil Mahajan v. Commissioner of Customs & another*, 2000 III AD (Delhi) 369 it is contended that the bail is a rule and not jail. The purpose of keeping a prisoner in custody is not pre-trial detention. The approach of the learned Trial Court in rejecting the bail is totally casual and the only ground on which bail has been denied is that there is apprehension that the accused may influence the witnesses as they are well connected and influential persons. There is no evidence that the Petitioners tried to influence any prosecution witness. It is further submitted that a person on bail has a better position to defend himself during trial and thus, the Petitioner be granted bail who has been in custody for more than 10 months. There is no justification for keeping him behind the bars any further.

6. Learned counsel for the CBI focusses his arguments on four reasons urged by the Petitioners for grant of bail i.e. the law laid down by the Hon ble Supreme Court in *Sanjay Chandra v. CBI* and other judgments, delay in proceedings, charge under Section 467 IPC being not made out and reliance on certain documents to show that it was a well deliberated decision wherein the witnesses and senior officers of the Government were party. It is contended that in *Sanjay Chandra (supra)* the Hon ble Supreme Court reiterated the guidelines laid down in its earlier decisions in *Gurcharan Singh v. State*, (1978)1 SCC 118, *Babu Singh v. State of U.P.*, (1978) 1 SCC 579 and *State of U.P. v. Amarmani Tripathi*, (2005) 8 SCC 21. The ratio laid down by all the judgments is that if the accused is of such a character that his mere presence at large would intimidate the witnesses, it is a good ground to deny bail. References are made to the statements of witnesses PW2 V.K. Gautam, Chief Operating Officer, PW-1 Sujit Panigrahi, Additional Director General, Technology FA and PW6 V.K. Saxena, who have shown the influence exerted by the Petitioners and how they had been terrorized and harassed by the Petitioners. Thus, from the statement of the witnesses it is writ large that the Petitioners are disentitled to bail on account of the fact that (1) their mere presence at large would intimidate the witnesses and (2) there is tangible evidence on record to show that they have in the past intimidated persons, who are today prosecution witnesses. Further one of the co-accused has been found to be influencing a prosecution witness.

7. Learned counsel for the CBI further contends that there is no delay on account of the prosecution. During the trial after filing of the charge sheet the copies of the charge sheet and list of documents were supplied to the accused on 24th May, 2011 when the Petitioners sought copies of the documents in E-form and the co-accused Surjit Lal sought a hard copy of the same. On 21st July, 2011 CBI supplied the copies of complete charge sheet, documents and statements in a DVD to all the accused persons. Thereafter, a request was made by the accused persons that hyper-linking be done for which CBI sought time. On 5th August, 2011 E-copies of the challans with hyperlink were furnished to the accused persons. In the meantime, three other accused surrendered before the Trial Court and E-copies of the challans were served upon them. Since some of the accused are still not available for trial, the CBI moved an application for separation of the trial, which was opposed by the Petitioners and other accused. In the meantime, CBI filed an application seeking to place on record certain additional documents and statements, which was finally decided on 4th January,

2012. The Trial Court has already directed for proceeding with the matter on day-to-day basis and thus from the perusal of the orders passed by the Trial Court, it is evident that there is no delay on account of the CBI.

8. As regards the allegations under Section 467 IPC, learned counsel for the CBI contends that the gravamen of charge against the Petitioners is that they in concert with other accused to achieve a common object entered into a conspiracy and as a part of conspiracy, Surjit Lal the co-accused forged the documents. A perusal of statements of all witnesses clearly reveals that all powers were centralized in the Petitioners and Mr. Bhanot, who were controlling all the decisions. In the charge-sheet there are prima facie allegations of forgery which have been confirmed by the CFSL report. If the Pan American Games were also included then other players in the field of this device would have also been included and thus there would have been more competition. A perusal of the letters written by the Ministry of Youth Affairs and Sports clearly shows that there was no other option but to go ahead with the decision to award contract to STL due to paucity of time.

Further the Central Government examined the documents only in reference to the complaints received and not for the purpose of re-validating the action taken by the Petitioners.

9. As regards the medical condition it is submitted that the Petitioner Suresh Kalmadi's condition is stable and he is provided with the best medical treatment. His condition is all right as is evident from the fact that he even approached this Court seeking permission to attend the Parliament. Thus, bail should not be granted to the Petitioners.

10. I have heard learned counsel for the parties. Briefly the case of the prosecution is that the Petitioner Suresh Kalmadi as the Chairman, Vishwa Kumar Verma as Director General, Lalit Kumar Bhanot, Secretary General of the Organizing Committee of the Commonwealth Games 2010, STL and other accused entered into a conspiracy to eliminate all forms of competition and ensure that STL was awarded the contract for TSR system. The Petitioners along with the other accused initially in the year 2008 attempted to nominate STL as the only eligible vendor. When this attempt was unsuccessful, in the year 2009 they issued a highly defective Expression of Interest by keeping the concerned officers i.e. Technology F.A. in dark. When this also did not bear fruit, the Petitioners with co-accused got issued a tailor made RFP to suit STL to the exclusion of other vendors. This is borne out from the fact that even prior to submitting of the bid in response to RFP on 4th November, 2009 the Petitioner Suresh Kalmadi in the presence of Petitioner V.K. Verma on 12th October, 2009 declared to the General Assembly of the CWG Federation that the TSR system would be provided by STL. In this regard on 21st March, 2009 a note was initiated by co-

accused Surjit Lal (DDG Procurement) enclosing therewith an Expression of Interest (EOI) for TSR wrongly stating that the Ministry of Sports had approved the placing of the same on the website without the knowledge of Technology F.A. Further forgeries were committed by Surjit Lal to ensure publication of EOI so as to favour STL. When the officers of Technology F.A. became aware of this EOI from the newspapers/ website of the O.C. on 29th March, 2009, strong objection was raised by PW-2 Vijay Kumar Gautam in his note dated 23rd March, 2009 which was suppressed. In view of the qualifications required in the EOI, none of the major providers of TSR responded. Thus, Surjit

Lal recommended that awarding of the contract for TSR to STL be considered, which recommendation was forwarded by co-accused Lalit Bhanot on 4th May, 2009 to the Ministry of Sports seeking its approval for awarding the contract to STL on a single vendor basis. However, the Government did not agree with the said recommendation and the Organizing Committee was advised to procure the TSR system through open tender. Though PW-1 Sujit Panigrahi recommended that an agreed approach to the provision of TSR system be adopted as the extent of planning and work required to deliver the services was significant, however this note was returned by the office of Petitioner V.K. Verma with the remark that no action was required on that file and PW-1 was dissuaded from processing the matter for open tender and to prepare a scope of work for STL instead. Thereafter, a draft RFP was put up by the Technology F.A. on 29th August, 2009. Even this RFP was manipulated and tampered with and the decisions taken thereon in the 8th OCFC meeting were fabricated. In the RFP the Pan American Games were excluded so as to oust a number of players. To further disqualify a competitor of STL, the Petitioner V.K. Verma once again tampered with the conditions of RFP and got deleted the word "or" thereby making it Timing Scoring and Result Management system instead of Timing Scoring or/and Result Management system. It was falsely stated that the decisions to delete the word "or" was taken on the directions of PW-3 Rahul Verma, Joint Secretary IST, Ministry of Youth Affairs and Sports. In fact no such meeting took place. In order to suppress the dissent, PW-2 V.K. Gautam was divested of his supervision of the Technology F.A. and vide order dated 13th October, 2009 the Petitioner Suresh Kalmadi entrusted it to Petitioner V.K. Verma. Thereafter on 6th November, 2009 V.K. Gautam was removed from OCFC and Sujit Panigrahi was superseded by the Petitioner Suresh Kalmadi by appointing one Sandeep Arya as ADJ Technology.

11. Though much has been stated by the learned counsel for the Petitioner that V.K. Gautam was removed from OCFC because the Government wanted Jarnail Singh to be adjusted and that in fact Jarnail Singh was a party to all the decisions, prima facie at this stage it cannot be said that no case for conspiracy for offence punishable under Section 467 IPC is made out on the facts alleged as there has been systematic manipulation of records to ensure that the contract is awarded to STL. At this stage the allegations of the prosecution have to be taken on their face value. This is an issue which will have to be decided by the Trial Court during trial on appreciation of evidence.

12. However, the issue that is required to be considered by this Court at this stage is whether the Petitioners are entitled to grant of bail when the investigation is admittedly complete and charge-sheet and all other documents under Section 173(8) Cr.P.C. have been filed. In Sanjay Chandra (supra) their Lordships held:

"14. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earliest times, it was appreciated that detention in custody pending

completion of trial could be a cause of great hardship. From time to time, necessity demands that some un-convicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, 'necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any Court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an un-convicted person for the purpose of giving him a taste of imprisonment as a lesson.

15. In the instant case, as we have already noticed that the "pointing finger of accusation" against the Appellants is 'the seriousness of the charge'. The offences alleged are economic offences which has resulted in loss to the State exchequer. Though, they contend that there is possibility of the Appellants tampering witnesses, they have not placed any material in support of the allegation. In our view, seriousness of the charge is, no doubt, one of the relevant considerations while considering bail applications but that is not the only test or the factor: The other factor that also requires to be taken note of is the punishment that could be imposed after trial and conviction, both under the Indian Penal Code and Prevention of Corruption Act. Otherwise, if the former is the only test, we would not be balancing the Constitutional Rights but rather "recalibration of the scales of justice." The provisions of Cr.P.C. confer discretionary jurisdiction on Criminal Courts to grant bail to accused pending trial or in appeal against convictions, since the jurisdiction is discretionary, it has to be exercised with great care and caution by balancing valuable right of liberty of an individual and the interest of the society in general. In our view, the reasoning adopted by the learned District Judge, which is affirmed by the High Court, in our opinion, a denial of the whole basis of our system of law and normal rule of bail system. It transcends respect for the requirement that a man shall be considered innocent until he is found guilty. If such power is recognized, then it may lead to chaotic situation and would jeopardize the personal liberty of an individual. This Court, in Kalyan Chandra Sarkar v. Rajesh Ranjan: (2005) 2 SCC 42, observed that "under the criminal laws of this country, a person accused of offences which are non-bailable, is liable to be detained in custody during the pendency of trial unless he is enlarged on bail in accordance with law. Such detention cannot be questioned as being violative of Article 21 of the Constitution, since the same is authorized by law. But even persons accused of non- bailable offences are entitled to bail if the Court concerned comes to the conclusion that the prosecution has failed to establish a prima facie case against him and/or if the Court is satisfied by reasons to be recorded that in spite of the existence of prima facie case, there is need to release such accused

on bail, where fact situations require it to do so."

16. This Court, time and again, has stated that bail is the rule and committal to jail an exception. It is also observed that refusal of bail is a restriction on the personal liberty of the individual guaranteed under Article 21 of the Constitution. In the case of *State of Rajasthan v. Balchand* : (1977) 4 SCC 308, this Court opined:

"2. The basic rule may perhaps be tersely put as bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like, by the Petitioner who seeks enlargement on bail from the Court. We do not intend to be exhaustive but only illustrative.

3. It is true that the gravity of the offence involved is likely to induce the Petitioner to avoid the course of justice and must weigh with us when considering the question of jail. So also the heinousness of the crime. Even so, the record of the Petitioner in this case is that, while he has been on bail throughout in the trial court and he was released after the judgment of the High Court, there is nothing to suggest that he has abused the trust placed in him by the court; his social circumstances also are not so unfavourable in the sense of his being a desperate character or unsocial element who is likely to betray the confidence that the court may place in him to turn up to take justice at the hands of the court. He is stated to be a young man of 27 years with a family to maintain. The circumstances and the social milieu do not militate against the Petitioner being granted bail at this stage. At the same time any possibility of the absconsion or evasion or other abuse can be taken care of by a direction that the Petitioner will report himself before the police station at Baren once every fortnight.""

13. Thus the requirements that have to be balanced at this stage are the seriousness of the accusations, whether the witnesses are likely to be influenced by the Petitioners being enlarged on bail during trial and whether the accused are likely to flee from justice if released on bail. As stated earlier, *prima facie* a case for offence under Section 467 IPC is made out, the punishment prescribed for which is up to life imprisonment. Thus, the accusations against the Petitioners are serious in nature. However, the evidence to prove accusations is primarily documentary in nature besides a few material witnesses. As held in *Sanjay Chandra* (supra) if seriousness of the offence on the basis of punishment provided is the only criteria, the Courts would not be balancing the Constitutional Rights but rather recalibrating the scales of justice.

14. Learned counsel for the CBI has strenuously contended that the witnesses were threatened and harassed by the Petitioners who permitted every course of action to be taken only as per their desire. In this regard statements of PW-1 Sujit Panigrahi, PW-2 V.K. Gautam and PW-6 V.K. Saxena have been relied upon. PW-1 Sujit Panigrahi has alleged that he was harassed and totally sidelined in all the matters. The witness was issued a memo with false allegations resulting in the witness giving resignation to the Petitioner Suresh Kalmadi on 26th November, 2009. The resignation was not

accepted at that time and further harassment followed. The witness even asked for being relieved on health grounds as the maltreatment was affecting him and finally on 20th January, 2010 he was relieved of his duty and one Sandeep Arya was brought in, who could manage the things as per the desire of the Petitioners and co-accused. PW-2 V.K. Gautam has stated that due to falsification and manipulation of records, heated arguments ensued between him and V.K. Verma the Petitioner herein, and he threatened to expose the manipulation. However, the Petitioner V.K. Verma contemptuously stated that he was not bothered about it and PW-2 could do what he wanted. PW-2 was removed from the OCFC on 6th November, 2009. PW-2 also had an exchange of words with the Petitioner Suresh Kalmadi on 13th October, 2009 whereafter the work of Technology F.A. was taken away from him and he was put under V.K. Verma. According to this witness the situation in O.C. became so unbearable that he proceeded on long leave from 20th December, 2009 citing personal reasons. PW-6 V.K. Saxena has stated that Kalmadi told him that STL had to be selected for the TSR system and Verma assured that he was sure that the Committee members knew how this had to be done. Petitioner V.K. Verma also threatened the witness PW-6 that if he qualified M/s. MSL he will have to face a CBI enquiry. Thus, to release the pressure being exerted on PW-6 to select STL only, PW-6 recorded his reasons for passing both STL and MSL and circulated his views to all members of the Committee which views formed a part of the Minutes of the Committee's decision. PW-1 Sujit Panigrahi who was also Technology expert agreed with the views of PW-6. Thereafter, Petitioner Suresh Kalmadi got angry with PW-6 and expressed his displeasure by observing that he knew how to get it corrected.

15. Thus, in nutshell the allegations of threatening the witnesses and tampering with the evidence are when the witnesses were working under the Petitioners and they were threatened and harassed to toe the line of the Petitioners. However, whether the said threat can raise an apprehension that the Petitioners are likely to influence the witnesses during the trial is an issue which has to be examined by this Court. It may be noted that the statements of these witnesses i.e. PW-1, PW-2 and PW-6 were recorded by the CBI when the Petitioners had not been arrested. Thus, it is apparent that the witnesses were harassed and threatened only till they were working under the Petitioners. Thereafter there was no influence on the witnesses and they made their statements fearlessly before the CBI. Thus, the evidence on record that in the past witnesses were intimidated does not prima facie shows that there is any likelihood of threat to the prosecution witnesses. I find no merit in the contention of the learned counsel for the CBI that the mere presence of the Petitioners at large would intimidate the witnesses. Further one co-accused who was actually found influencing the prosecution witness is not the Petitioner before this Court.

16. As regards delay in trial, it may be noted that the charge sheet was filed on the 20th May, 2011 and thereafter twice supplementary charge sheets with list of witnesses and documents have been filed. After the charge sheet was filed, time was consumed in providing it in E-form with hyperlinking. After the scrutiny of the supplementary charge, the matter will now be listed for arguments on charge. Though the learned Trial Court has directed that the trial be conducted on day to day basis, however, in the main charge sheet itself 49 witnesses have been cited. Thereafter, further witnesses have been cited in the two supplementary charge sheets. Thus, the trial is likely to take time.

17. The Petitioner Suresh Kalmadi has been in custody for over eight months and Petitioner V.K. Verma for ten months. There is no allegation that the Petitioners are likely to flee from justice and will not be available for the trial. The allegations against the Petitioners are of having committed economic offences which have resulted in loss to the State Exchequer by adopting the policy of single vendor and ensuring that the contract is awarded only to STL. Whether it was a case of exercise of discretion for ensuring the best quality or a case of culpability will be decided during the course of trial. There is no allegation of money trial to the Petitioners. There is no evidence of the Petitioners threatening the witnesses or interfering with evidence during investigation or trial. There is no allegation that any other FIR has been registered against the Petitioners.

18. In the facts and circumstances of the case, I am inclined to bail to the Petitioners. It is, therefore, directed that the Petitioners be released on bail on their furnishing a personal bond in the sum of Rs.5 lakhs with two sureties of the like amount each, subject to the satisfaction of the learned Trial Court. The Petitioners will not leave the Country without the prior permission of the learned Trial Court.

The Petitions stand disposed of accordingly. Order dasti.

(MUKTA GUPTA) JUDGE JANUARY 19, 2012 'vn'