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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 1598/2021

DIRECTORATE OF ENFORCEMENT

..... Petitioner

Represented by: Mr.S.V.Raju, Additional Solicitor
General with Mr.Zoheb Hossain and
Mr.Nitesh Rana, Advocates.

versus

AMARENDRA DHARI SINGH

..... Respondent

Represented by: Mr.Siddharth Aggarwal, Sr.Advocate
with Mr.Madhav Khurana, Mr.Sri
Ram Krishna, Ms.Trisha Mittal,
Mr.Abhinav Sekhri, Ms.Nitika
Khaitan and Ms.Riya Arora,
Advocates.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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22.07.2021

The hearing has been conducted through Video Conferencing.

CRL.M.A.11155/2021 (exemption from filing affirmed affidavits)

1. Allowed, subject to the petitioner filing the attested affidavits within one week.
2. Application is disposed of.

CRL.M.C. 1598/2021

CRL.M.A.11154/2021 (stay)

1. By this petition, petition seeks setting aside of order dated 15th July, 2021 passed by the learned Special Judge, Prevention of Corruption Act directing that the copy of the ECIR bearing No.DLZO-1/43/2021 pursuant whereto the inquiry/investigation on which the petitioner was proceeded

with, be supplied to the respondent within a week from the receipt of the impugned order.

2. Learned Additional Solicitor General appearing for the petitioner states that there is no specific power with the learned Special Judge under the Cr.P.C. to pass directions to the petitioner to supply the copy of the ECIR. It is further stated that the impugned order was passed on the second application of the respondent seeking copy of the ECIR and the first application filed by the respondent was already withdrawn as not pressed. Further the respondent has no locus to ask for the copy of the ECIR for the reason, the petitioner is bound to file a complaint case and till summons are issued to the respondent, he cannot interfere in the proceedings nor ask for any document. Till date neither any complaint case has been filed nor has any process been issued against the respondent. The complaint having not been filed till date there can be no quashing of the complaint even for which the respondent may seek necessary documents.

3. It is further stated that no prejudice has been caused to the respondent by non-supply of the ECIR which is not like a FIR on the basis whereof investigation is started. Further the claim of the respondent that prejudice has been caused has been vaguely demonstrated. Learned Additional Solicitor General further states that even otherwise recording of a FIR is not necessary when anticipatory bail is sought and in case anticipatory bail can be granted without a FIR being registered, respondent cannot claim prejudice seeking a copy of the FIR. Further the claim of respondent that his defence is affected cannot be looked into at this stage for the reason the stage of leading defence evidence has not reached.

4. On a query raised by this Court that since the respondent has already

been arrested in pursuance to the recording of ECIR No. DLZO-1/43/2021 under Section 3/4 of the Prevention of Money Laundering Act, 2002 (in short 'PMLA') in case the copy of the ECIR was not provided as to how the respondent was informed of the grounds of arrest in writing, learned Additional Solicitor General states that the grounds of arrest have been duly informed to the respondent however, the document in this regard could not be placed on record. It is contended that the grounds of arrest were duly shown to the learned Trial Court which perused the same physically at the time of granting the remand order.

5. Issue notice.

6. Mr.Madhav Khurana, Advocate accepts notice on behalf of the respondent.

7. Reply affidavit be filed within one week. Rejoinder affidavit be filed within three days thereafter.

8. List on 4th August, 2021 when the connected matter involving the same issue is listed before this court.

9. In the meantime, an affidavit of the Director, Enforcement Directorate will be filed on record indicating the status of the ECIR in an investigation carried on by the petitioner and whether the same is merely a number or records some substantive information therein for the petitioner to start the investigation thereon prior to filing of the complaint case. Further affidavit will also indicate as to once a person is arrested how the grounds of arrest are informed to the arrested person in terms of the guidelines issued by the Hon'ble Supreme Court in the decision reported as AIR 1997 SC 610 D.K. Basu vs. State of West Bengal.

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10. Order be uploaded on the website of this Court.

MUKTA GUPTA, J.

JULY 22, 2021

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Signature Not Verified

Digitally Signed By: JUSTICE
MUKTA GUPTA
Signing Date: 22.07.2021
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