

(1989) 08 DEL CK 0063

Delhi High Court

Case No: Criminal Miscellaneous (Main) Appeal No. 800 of 1989

Nirmal Puri

APPELLANT

Vs

Central Bureau of Investigation
and Another

RESPONDENT

Date of Decision: Aug. 8, 1989

Citation: (1989) 39 DLT 476

Hon'ble Judges: S. Duggal, J

Bench: Single Bench

Advocate: M.C. Bhandare, Sushil Bajaj, S.K. Saxena and S. Lal, for the Appellant;

Judgement

Santosh Dnggal, J.

(1) The bail petition moved on behalf of Lt. Gen. Nirmal Puri arrested on 6th January, 1989, for offence u/s 120-B Indian Penal Code read with Section 3/5 of the Official Secrets Act. 1923 and substantive offences under Sections 3/5 of the said Act has been heard at length.

(2) A reading of the Fir reveals that the petitioner faces grave charge of having entered into a criminal conspiracy with his co-accused Vinod Khanna, Chairman of Concorde Industrial (Pvt.) Ltd.. a firm stated to be dealing with procurement of equipments for defense Forces, and representative of various foreign firms, like Saab Missiles, Saab Instruments, M/s. Nisar Spa etc. and in pursuant to the alleged conspiracy having passed on secret/ classified official information, containing defense secrets, to his co accused in respect to certain matters, the disclosure whereof was likely to jeopardize sovereignty and integrity, or Security of India.

(3) The case was registered, as a sequel to recovery of one file, during search by Income Tax authorities in the office of Concorde Industrial (Pvt.) Ltd., which file allegedly contained material disclosing requirement of light tanks for the Army together with the assessment as to the effectiveness and relative merits and demerits thereof, as well as details of the trials/filed tests conducted, including their

locations, as well as requirement of Vhf Radio sets, and Simulators.

(4) The file contained an envelope marked "Personal/Confidential; for Vinod Khanna.

(5) The main thrust of argument of Mr, Bhandare, canvassing for bail for the petitioner was on the fact that much of the material had been published in the year 1984 in certain journals and partly in the year 1982 itself in Sunday Magazine, and that for that reason it could not be alleged that the material found in the file recovered from the office of Concorde Industrial. (Pvt.) Ltd. was of secret nature.

(6) I would not like to dwell at length as to this contention lest it prejudges the trial but a reading of the material contained in the file, admittedly in the hand of the petitioner, and handed over to a person who was representative for various foreign firms, as indicated in the FIR. on face of it had a bearing on the defense preparedness of the country, the future plans for acquisition of certain armoury, or relative strength of the existing one and disclosure whereof to a person who was not authorised to receive it, and thus *prima facie* an offence punishable under the Official Secrets Act is made out.

(7) The question as to whether Section 3 of the Act would be attracted or not is too early to consider at this stage because the case has not yet reached the stage of charge before the trial court. As at present, keeping in view the gravity of the offence with which the petitioner is accused of, I do not think it to be a fit case to consider him for bail as it is *prima facie* a case where information, which obviously came to petitioner's knowledge or possession while serving in the Armed Forces, and which was of secret/ confidential nature, and as per the evidence collected, all contained in the official files of the defense Ministry, mostly marked "Secret" or "Classified". The petition is Therefore, liable to be rejected. I take this view on the authority of the judgment of the Supreme Court in the case of : The State v. Jaspal Singh Gill AIR 1984 S.C. 1583.

(8) I was, however, informed during hearing that the trial is not making headway for the reason that so far the question as to supply of copies of documents demanded by the accused has not been decided. It is expected that the trial court shall proceed with the case expeditiously keeping in mind that the accused are in custody.

(9) It is made. however, clear that the trial court shall not at all feel bound by any observation made herein. Dismissed.