



***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL WRIT PETITION (STAMP) NO.22762 OF 2024

Deepak Kochhar

... Petitioner

Versus

Serious Fraud Investigation Office and Anr.

...Respondents

Mr. Amit Desai, Senior Advocate, a/w Mr. Gopalkrishna Shenoy, Mr. Ashwin Thool, Mr. Rohan Dakshini, Ms. Pooja Kothari, Ms. Deepa Shetty, Ms. Tanvi Mate and Ms. Rakshita Singh i/b Rashmikant and Partners, for the Petitioner.

Ms. Manisha Jagtap, Spl. P.P. for the Respondent No.1-SFIO.

Mr. Uday Khomne, Deputy Director of SFIO, is present.

***CORAM : REVATI MOHITE DERE &
ROHIT WASUDEO JOSHI, JJ.***

DATE : 25th OCTOBER 2024

P.C. :

Not on board. Taken on board.

1. Heard learned senior counsel for the petitioner.
2. By this petition, the petitioner seeks the following substantive reliefs:-

“31.

- “(a) issue appropriate writ(s), order(s) and/or directions(s) whereby this Hon'ble Court may be pleased to:*
- (i) Direct Respondent No. 1 to issue the necessary circular to ensure that senior citizens like the Petitioner are only summoned and questioned during working hours;*
 - (ii) Direct Respondent No. 1 to not take any coercive steps against the Petitioner in connection with the investigation in the affairs of Videocon and its 12 other companies*
- (b) That pending the hearing and final disposal of the present Petition, this Hon'ble Court be pleased to direct Respondent No. 1 to not question the Petitioner beyond working hours on 28th October 2024;*
- (c) That pending the hearing and final disposal of the present Petition, this Hon'ble Court be pleased to direct Respondent No. 1 to not take any coercive action against the Petitioner.”*

3. Mr. Desai, learned senior counsel for the petitioner submits that the petitioner was summoned on 18th October 2024, however the petitioner could not remain present and instead appeared before the respondent No.1-Serious Fraud Investigation Office ('SFIO') on 22nd October 2024. Mr. Desai submits that the petitioner was questioned in the office from 10:45 a.m. to 10:00 p.m. Learned

senior counsel for the petitioner submits that the petitioner could not have been questioned beyond working hours. Learned Senior Counsel relied on the judgment of this Court in the case of ***Ram Kotumal Issrani v/s Directorate of Enforcement, through Assistant Director and Another¹***, in which certain observations were made and directions were given to the Directorate of Enforcement ('ED'). Pursuant thereto, the ED issued a Technical Circular No.5 of 2024 dated 11th October 2024. Learned senior counsel relied on para 18 of the said Circular. Para 18 of the said circular reads thus :

"18. Timing of recording of statement: It is expected from the Authorized Officer that he shall be well prepared with copies of documents to be confronted as well as questionnaire to examine the person summoned at appointed date and time. The Authorized Officer while fixing the date and time of the compliance of the summons should ensure that the person so summoned is taken up for examination on appointed time and date without keeping him waiting for hours. Considering the nature of offence of money laundering where a person is able to dissipate, transfer or conceal the proceed of crime or destroy digital evidence within shortest period of time through online instructions using mobile phone or other digital media (this fact has been acknowledged by Hon'ble Apex Court in case of Vijay Madanial Choudhary), the Investigating Officer shall endeavour to conclude the examination of the person summoned expeditiously,

1 Cr. Writ Petition (Stamp) No.15417 of 2023 decided on 15.04.2024.

ideally on the same day or the following day. This approach may minimize the opportunity to the person summoned either to transfer or conceal proceeds of crime or to fabricate make believe and concocted explanations. However, efforts should be made to record statement of person summoned during earthly hours Le. during office hours rather than stretching it too late at night. In cases of senior citizens, individuals with serious medical condition or individuals who are sick or infirm (subject to verification of medical records or condition), examination of such person should be restricted to earthly hours and it would be appropriate to adjourn the examination to next date or any other mutually agreed date as a matter of practice. However, in exceptional circumstances, for example, where authorized officer has credible information/ material that the person if allowed to leave without completion of examination will either alienate proceeds of crime or destroy evidence or past conduct of person summoned or abscond or may not join investigation, etc., the authorized officer may record the statement beyond earthly hours after recording such reason on case file and taking approval of Deputy/ Joint/ Additional Director concerned.”

4. Learned senior counsel for the petitioner submits that even the respondent No.1-SFIO cannot be permitted to interrogate or detain any person beyond working hours. He submits that the petitioner apprehends that he may be arrested by the respondent No.1-SFIO.

5. When the petition was called out in the first session Ms. Jagtap, learned Special P.P. appearing on behalf of the respondent No.1-SFIO, sought time to take instructions, pursuant to which the petition was kept in the second session and taken up at 3:50 p.m. Despite asking Ms. Jagtap to take instruction with respect to whether the respondent No.1-SFIO intends to take any coercive action against the petitioner, Ms. Jagtap, is unable to throw light on the said aspect for want of instructions. As far as prayer clause (b) is concerned, Ms. Jagtap, learned Special P.P. appearing on behalf of the respondent No.1-SFIO, assures that the respondent No.1-SFIO will not question the petitioner beyond working hours on the day when the petitioner is summoned. Statement accepted.

6. Ms. Jagtap, learned Special P.P. appearing on behalf of the respondent No.1-SFIO seeks time to file an affidavit-in-reply. The same to be filed in the registry within two weeks from today with an advance copy to the learned counsel for the petitioner.

7. Stand over to 13th November 2024.

8. Having heard learned senior counsel for the petitioner, in the meantime, till the next date, no coercive steps be taken against the petitioner.

9. Needless to state, that the petitioner to appear before the respondent No.1-SFIO on the dates summoned by the SFIO.

All concerned to act on the authenticated copy of this order.

ROHIT WASUDEO JOSHI, J.

REVATI MOHITE DERE, J.