

**In the Hon'ble Court of Shri Deepak Sehrawat, CMM,  
Patiala House Courts, New Delhi.**

**In the Matter of**

**CBI**

**Vs.**

**Shri Upendra Rai and Others**

Case No. RC 217 2018 A 0003 of  
CBI : ACU-V : New Delhi  
U/s 120-B r/w 420 of IPC and Section  
13(2) r/w 13(1)(d) of PC Act, 1988

**Reply to the Application dated 04.02.2019 filed by Directorate of  
Enforcement u/s 44(1)(c) of the PMLA, 2002 to commit CBI Case before the  
Ld Special Court of PMLA**

The Central Bureau of Investigation most respectfully submits before this Hon'ble Court as under :

1. That the case RC 217 2018 A 0003 has been registered on 01.05.2018 U/s 120-B and 420 of IPC and Section 13 (2) r/w 13 (1) (d) of the Prevention of Corruption Act, 1988 against Shri Upendra Rai ; Shri Prasun Roy, Chief Security Officer of M/s Air One Aviation Pvt Ltd ; M/s Air One Aviation Pvt Ltd ; unknown officials of BCAS ; unknown public servants and private persons.
2. That a Charge Sheet has been filed in the instant case before the Hon'ble Special Court, CBI Cases-03, Patiala House Courts, New Delhi on 31.07.2018. The investigation of the case is kept open under the provisions of 173 (8) CrPC.
3. That the trial of the case was transferred by the Hon'ble Special Court, CBI Cases-03, Patiala House Courts, New Delhi to this Hon'ble Court on 17.12.2018 because Sanction for Prosecution against Shri Rahul Rathore, Assistant Director, BCAS was not received from the competent authority. Presently, the case is pending trial before this Hon'ble Court.

4. That the present application has been moved by ED u/s 44(1)(C) PMLA, 2002 praying that the instant CBI Case, being a case relating to scheduled offences, may be committed before the Hon'ble Special Court of PMLA.

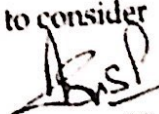
5. That it is submitted that the CBI has filed charged sheet for commission of offences of criminal misconduct, criminal conspiracy, cheating and forgery u/s 120B r/w 420, 467, 468 & 471 IPC and u/s 13(2) r/w 13(1)(d) of the PC Act in the instant case. The provisions of section 420 are invoked in this charge sheet, as the accused persons induced BCAS Authorities, on the strength of forged documents and obtained gain in the form of getting AEP issued in his favour. This charge sheet does not involve any wrongful pecuniary gain to the accused persons in terms of money. Therefore, the proceeds of crime in monetary terms do not exist in this charge sheet and as such the question of laundering the same does not arise. The ED has filed Prosecution Complaint u/s 03 & 04 of Prevention of Money Laundering Act, which deal with monetary proceeds of crime. The CBI chargesheet, therefore, deals with offences which are entirely different from that of ED's Prosecution Complaint. Committing CBI case alongwith ED Case will not serve any interest of justice.

7. That it is further submitted that CBI case may not be adequately presented if it is committed alongwith ED Case before the Hon'ble Special Court (PMLA) as both cases deal with different sets of offences.

Prayer : In view of the facts and circumstances mentioned above, it is most humbly prayed that the ED Application may kindly be dismissed in the interest of justice.

Dated : .03.2019  
New Delhi

Be pleased to consider

  
(Ashish Pareek) 18.03.19  
Dy. Supdt. of Police  
CBI : AC-II : New Delhi