

Supreme Court Grants Bail to Delhi CM in CBI Case: Key Highlights

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What's in today's article?

- Why in News?
- Central Bureau of Investigation (CBI)
- Criticism of CBI
- Background- timeline of the case
- Key highlights of the judgement

Why in News?

The Supreme Court has granted bail to Delhi CM Arvind Kejriwal in connection with the CBI's complaint in the Delhi excise policy case. However, the apex court placed certain conditions.

While pronouncing the verdict, one of the judges of the bench criticized the CBI for its conduct in the case, emphasizing that as the country's leading investigative agency, it must work diligently to eliminate any doubts about the fairness of its investigation or potential bias in arrests.

He also recalled past instances where the Court had harshly rebuked the CBI, even likening it to a "caged parrot."

Central Bureau of Investigation (CBI)

• About

- The **Central Bureau of Investigation (CBI)** is the premier investigative agency of India.
- The agency was established in 1963 by the Indian government as a result of the recommendation of the Santhanam Committee.
- CBI is **not a statutory body**. It derives its power to investigate from the Delhi Special Police Establishment Act, 1946.

• Control

- It operates under the jurisdiction of the Ministry of Personnel, Public Grievances and Pensions (which in turn operated under PMO).
- However, for investigation of offences under the Prevention of Corruption Act, CBI vests superintendence to the Central Vigilance Commission.

• Functions

- Initially, it was set up to investigate corruption in government departments and public sector undertakings.
- However, over the years, its jurisdiction has expanded to cover a wide range of cases, including economic offenses, cyber-crimes, organized crimes, and special crimes.

Criticism of CBI

• Guided By Pre-independence Act:

- The CBI is still guided by DPSE Act 1946, whose provisions hamper the accountability and autonomy of the institutions.
- In 2013, the Guwahati HC, in a judgement, had termed CBI as unconstitutional as it has no statutory backing.
- It was later stayed by the Supreme Court.

• Politically inclined

- There have been instances where CBI has been politically biased as it is vulnerable to undue political pressure.
- During the coal block investigation, the CBI was asked to share the findings with the government.
- The carrot of post-retirement benefit makes CBI chief prone to toeing the lines of incumbent government.
- The image of a premier investigating agency suffered a serious setback when the Supreme Court of India termed CBI as caged parrot with many masters.

• Delays in case solving

- It shows the inefficiency and inefficacy of this top most investigating agency of India.

• Corruption and Nepotism

- Ex-CBI director Joginder singh in his book revealed about the prevalent corruption and nepotism within the agency.

• Turf war

- In 2019, the agency was involved in turf war between its director and its special director. Both had accused each other of corruption and money laundering.

Background- timeline of the case

• Delhi CM arrested twice in connection with the excise policy case

- March 21, 2024: Arrested by the **Enforcement Directorate (ED)**.
- June 26, 2024: Arrested by the CBI while already in custody.

• Supreme Court Grants Interim Bail in ED Case

- July 12, 2024: The Supreme Court granted Kejriwal interim bail in the ED case, but he remained in jail due to pending CBI proceedings.

• Delhi High Court Upholds CBI Arrest

- August 5, 2024: The Delhi High Court upheld the CBI's arrest decision and instructed Kejriwal to approach the trial court for bail.

• Delhi HC Order challenged at Supreme Court

- Delhi CM filed an appeal in the Supreme Court against the Delhi High Court's decision.

- Finally, the apex court granted bail to Delhi CM.

Key highlights of the judgement

• **Granted bail**

- The Bench of Justices Surya Kant and Ujjal Bhuyan unanimously agreed on the question of granting bail to Delhi Chief Minister in the CBI case.
- The judges determined that the Delhi CM satisfied the **“triple test” for bail**: no risk of evidence tampering, no flight risk, and no undue influence on witnesses.

• **Bail conditions imposed**

- In separate but concurring orders, the bench of Justices extended the bail conditions imposed in the ED matter to the CBI case as well.
- The conditions of his bail included:
 - No visits to the Chief Minister’s Office or the Delhi Secretariat.
 - No signing of official files unless required for the Lieutenant Governor’s clearance.
 - No public comments about the case or interaction with witnesses.
 - Full cooperation with the trial and attendance at court hearings.

• **Diverging opinions on the necessity of arrest**

- During the hearings, both sides relied on Sections 41(1)(b) and 41A of the Code of Criminal Procedure, 1973 (CrPC).
- Section 41(1)(b) lays down the conditions for arrest without a warrant.
- Section 41A deals with the appearance of an accused before police in cases where arrest is not required.

• **Arguments extended by Delhi CM**

- Delhi CM argued that the conditions for his arrest under Section 41(1)(b) were not met.
- He was not served a notice under Section 41A prior to his interrogation by the CBI.

• **Justice Kant’s Rulings on Sections 41(1)(b) and 41A**

- Justice Kant ruled that Section 41(1)(b) was not applicable since a CBI Special Judge had authorized Delhi CM’s arrest.
- He also clarified that Section 41A does not require a notice to be served to someone already in judicial custody, as Kejriwal was in relation to an ED case at the time.
- Justice Kant upheld the CBI’s reasoning for arrest.

• **Justice Bhuyan’s Criticism of the CBI’s Actions**

- Justice Bhuyan rejected the CBI’s justification for arresting Kejriwal, stating that the agency cannot demand that an accused must answer in a manner that satisfies the investigators to be deemed cooperative.
- He invoked **Article 20(3) of the Indian Constitution**, which protects individuals from self-incrimination, emphasizing that **an accused has the right to remain silent**.
- He also raised concerns about the timing of Kejriwal’s arrest, noting that the CBI sought his custody immediately after he was granted bail in another case.

Q.1. What were the bail conditions imposed on the Delhi CM in the CBI case?

The bail conditions included prohibiting the Delhi CM from visiting his office, signing official files without the Lieutenant Governor's approval, making public comments on the case, or interacting with witnesses.

Q.2. Why did Justice Bhuyan criticize the CBI's arrest of the Delhi CM?

Justice Bhuyan questioned the timing of the arrest and the CBI's justification, asserting that an accused's right to remain silent should not be interpreted as a lack of cooperation, as protected under Article 20(3) of the Constitution.

Source: Kejriwal is free after Supreme Court grants bail, judge puts CBI in the dock | Supreme Court Observer | Indian Express | The Hindu

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