



*JPNN/New Delhi /Apr 1, 2015/In a relief to former Prime Minister Manmohan Singh, the Supreme Court Wednesday stayed the trial court order summoning him as accused in a case pertaining to grant of Talabira-II coal block in Odisha in 2005 to Aditya Birla group company Hindalco. The stay, which also applied to Hindalco Chairman Kumar Mangalam Birla, former Coal Secretary P C Parakh and three others, came after senior counsel Kapil Sibal questioned the legality of the summons to the former Prime Minister citing lack of sanction as required under the CrPC and contended that allocation of a coal block was an administrative act without any criminal intent. "We issue notice on all six petitions. The trial court order shall remain stayed," a bench of justices V Gopala Gowda and C Nagappan said after hearing arguments by Sibal, who represented the former Prime Minister, and other lawyers in the case. 82-year-old Singh's daughters, Upinder Singh and Daman Singh,*

*were present in the court during the proceedings. The bench also stayed the proceedings before the trial court and issued notice to the Centre on a plea challenging constitutional validity of section 13 (1)(d)(iii) of the Prevention of Corruption Act. The other three summoned as accused are Hindalco, Shubhendu Amitabh and D Bhattacharya, its officials. All the six were summoned by Special CBI Judge Bharat Parashar to appear before the court on April 8. "I must confess that I have not been able to find out what is the illegal act done by the petitioner in the case," Sibal said at the outset of the 35-minute proceedings. Sibal said it is not an illegal act to allot a mine contending that the administrative acts of the Prime Minister cannot be faulted on the ground that he did not follow the recommendations or procedures adopted by the screening committee. He also referred to the earlier Supreme Court judgement by which all the coal block allocations were quashed on the ground that screening committee procedures were illegal. "The trial court, in its order, says that you did not follow the screening committee and this is contrary to law," Sibal said, adding that the order summoning the PM does not stand the scrutiny of "public reasoning". He also said that the trial court order does not deal with the provisions on*

requirement of prior sanction to prosecute a public servant under the criminal procedure code (CrPC) and the Prevention of Corruption Act. Referring to the essential ingredients of an offence, Sibal said that "there is no reference of meeting of minds to commit an illegal act by the accused persons". During the hearing, the bench asked the counsel for Singh to satisfy it on provisions relating to grant of sanction to prosecute a public servant. Sibal referred to various Supreme Court judgements and said, "Even if I am the Coal Minister at the relevant time, I don't lose the status of the Prime Minister who has got plenary power. Everyday, I take decisions as minister and reject the advice, should I be sent to Tihar Jail?"

There has to be a meeting of minds to do a criminal act with regard to allocation of Talabira coal mines to a private firm, he said, adding, "Where is the criminal conspiracy? Is it an offence to grant coal mines to a private sector company?" Sibal said a decision may be "right or wrong" but it cannot be said to be an illegal act and the trial court order does not stand the scrutiny of public reasoning. "There was no final allocation. There was no communication of the decision. A decision unless communicated, does not become a decision," he said. Sibal also referred to the December 16, 2014 order of the trial court by which CBI was asked to question the former Prime Minister, and said that "a judge cannot do this. This is not fair. This is maverick." "A judge can reject the closure report and may take cognizance of the closure report but cannot decide the nature of the investigation, he said. The former Prime Minister had, on March 25, moved the apex court seeking quashing of the summons against him and stay of criminal proceedings in a CBI court. Singh had sought quashing of the summons on the ground that the March 11 order of the trial court was passed without application of mind.

The former Prime Minister had also sought a stay on the criminal proceedings contending that there was no element of criminality in his decisions taken in the capacity of Coal Minister. The plea had said that there was nothing on record to point out that Singh had done any act which may constitute any offence, adding that the former Prime Minister had only taken a decision as a competent authority on allocation of Talabira-II coal block to Hindalco on the representation of Odisha government. The Special CBI court had on March 11 said that prima facie it is clear that the criminal conspiracy which was initially conceived by Birla, Hindalco and its two officials, was carried out further "by roping in Parakh, and thereafter the then Minister of Coal, Manmohan Singh". It had said that Singh's approval to allocate coal block to Hindalco "prima facie facilitated windfall profits" to the private firm resulting in loss to state-owned PSU Neyveli Lignite Corporation Ltd (NLC). Agency