

Bhopal tragedy: Keshub Mahindra plans to appeal the verdict

NDTV Correspondent, June 10, 2010 (Mumbai)

After being one of the eight to be held guilty in the Bhopal Gas case and subsequently sentenced to two years in prison, ex-Union Carbide India chairman Keshub Mahindra plans to appeal the verdict, sources have revealed.

Out on bail immediately after the verdict was announced, sources have told NDTV that Mr Mahindra's legal counsel is preparing his appeal to be filed in the Bhopal sessions court.

The basic tenet the case rests on is the fact that a non-executive chairman should not be held liable for the industrial disaster.

The appeal will state that the judgment and order is illegal as is bad in law and fact. And the prosecution failed to establish offence punishable under Section 35 or prove it is as a criminal act.

Mr Mahindra will claim to have been only the chairman and director of UCIL and not involved in operations. The argument will state that he therefore has no presumptive liability.

"I personally think the chairman's indictment is a great concern to India Inc because a non-executive is not involved in the day to day working of a company. He is a non-executive chairman because of his standing. For Indian businessmen this will be a big issue. I don't know about catching the right people but it I am more interested in not catching the wrong people. This will force people to withdraw people from participating in business in an independent role," said Zia Mody, senior partner at AZB & Partners.

According to sources, Mr Mahindra's team will argue that he was not concerned with the day to day safety at Union Carbide and that there is no evidence to prove that he knew about any of the circumstances that led to the accident.

The defence will also claim that Mr Mahindra was arrested when the incident occurred only because he rushed to the scene in its aftermath. The rest of the board of directors stayed away and were conveniently not named in the FIR and subsequent indictment.

In fact NDTV has learnt that Mr Mahindra maintained no office in Bhopal and only attended board meetings of UCIL. His sole responsibility was to chair these meetings and he received a mere Rs 250 as sitting fees per meeting.

But not everyone agrees.

"If you aren't going to be a responsible director then don't take up one, that's my message. I don't take up such offers because I won't be able to do full justice to the role. Our laws are fairly good but we aren't consistent. Because of corruption some people get away with murder and some people get unnecessarily implicated. It's important to execute policies otherwise any amount of reforms won't work," said Nishit

Desai, senior partner at Nishit Desai Associates.

Will this case help fine tune the penal code pertaining to corporate liability? That appears to be the larger concern from those within the legal system and from India Inc too.