

IN THE HIGH COURT AT CALCUTTA

(Appellate Side)

CRIMINAL MISCELLANEOUS JURISDICTION

CRM 1903 of 2020

Reserved on: 16/06/2021

Pronounced on: 19/06/2021

Debjani Mukherjee

.....Petitioner

Through:-

M/s. Jayanta Narayan Chatterjee,
Mr. Sabir Ahmed, Mr. Ayan Chakraborty,
and Mr. Hareram Singh, Advocates

...for the petitioner
present in Court

-Vs-

Central Bureau of Investigation

.....Opposite Party

Through:-

Mr. Y.J. Dastoor, Ld. ASG with
M/s Phiroze Edulji, and
Mr. Samrat Goswami, Advocates

...for the OP present
in Court

**Coram: THE HON'BLE JUSTICE RAJESH BINDAL,
CHIEF JUSTICE (ACTING)**

THE HON'BLE JUSTICE ARIJIT BANERJEE

ORDER

The Court:

1. The petitioner stands accused along with several other persons under Sections 120B/420/409 of the Indian Penal Code, 1860 read with Sections 4 and 6 of the Prize Chits & Money Circulation Schemes (Banning) Act, 1978, in RC Case No. 06/S/2014 which corresponds to T.R.No.84 of 2014, pending before the Learned Chief Metropolitan Magistrate, Kolkata. In this application the petitioner prays for being enlarged on bail.

2. We have heard Mr. Chatterjee, Learned Advocate for the petitioner and Mr. Dastoor, Learned Additional Solicitor General for the CBI.

3. The petitioner contends that she was arrested on April 22, 2013 and since then has been in custody. However, CBI contends that such arrest was in connection with some other criminal case. In so far as the present case is concerned, the petitioner was apprehended on June 14, 2014. Thus admittedly, the petitioner is in custody for more than seven years.

4. It is not in dispute that the charge-sheet was filed on October 22, 2014. It follows that the investigation against the accused persons including the petitioner is complete. CBI has not been able to satisfy us as to why further custodial detention of the petitioner is necessary.

5. Trial has not started and nobody can say with any certainty when trial will start. It does not appear that the trial will conclude within a measurable distance of time. It will indeed be a travesty of justice to keep the petitioner confined in jail any further if after the trial the petitioner is ultimately found to be innocent.

6. It is also not the case of CBI that the petitioner did not co-operate in the process of investigation. There is no allegation that she is likely to tamper with evidence.

7. Bail is still the rule and jail is the exception during or before trial. Personal liberty is sacrosanct and a person, even an accused, cannot be kept incarcerated except for compelling reasons.

8. It is also pertinent to note that Kunal Kumar Ghosh, a co-accused, in the same case, was granted interim bail by this court on October 5, 2016 which was confirmed by this Court on January 6, 2017. It appears that the petitioner stands on the same if not better footing than the said co-accused.

9. In view of the aforesaid, we are of the opinion that the petitioner ought to be enlarged on bail, though on terms.

10. Accordingly we direct that the petitioner be released on bail on furnishing a bond of Rs.2 lakhs with two sureties of Rs.1 lakh each, one of whom must be local, to the satisfaction of the Learned Chief Metropolitan Magistrate, Kolkata on condition that after release, she shall not leave the jurisdiction of the police station within the territorial limit of which her residence is situated except for the purpose of attending court proceedings. She shall also meet the Investigating Officer of the case once every week. We clarify that the CBI shall be at liberty to summon her to its office for the purpose of further investigation and interrogation, if so required. Moreover, before her release the petitioner shall cause her passport to be deposited with the Court concerned. The petitioner shall not make any attempt to contact any of the prosecution witnesses and shall not tamper with evidence in any manner whatsoever. In case of breach of any of the conditions of bail mentioned in this order, the bail shall be liable to be cancelled by the Court below without reference to this Court.

11. It is made clear that in the event the petitioner does not find registered surety of the amount indicated above, she will be at liberty to furnish cash surety instead.

12. CRM 1903 of 2020 is accordingly disposed of.

Urgent certified photocopy of this judgment and order, if applied for, be given to the parties upon compliance of necessary formalities.

(RAJESH BINDAL)
CHIEF JUSTICE (ACTING)

(ARIJIT BANERJEE)
JUDGE

Kolkata

19/06/2021

PA (A.S.)