

08.04.2021

Item no.2.

Court No.1

AB/SDE (t)

(Via Video Conference)

C.R.M. 12189 of 2017

With

I. A. CRAN 1 of 2020

(Old CRAN 1159 of 2020)

In Re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with CBI/SCB SIT/KOLKATA CASE No. RC-53/S/2014 Dated 27.09.14 under sections 420/409/120B IPC read with Sections 4 and 6 of the Prize Chits & Money Circulation Scheme (Banning) Act

Pramatha Nath Manna

Vs

Central Bureau of Investigation

Mr. Sabyasachi Banerjee,
Mr. Ayan Bhattacharya,
Mr. Debangana Bhattacharya,
Mr. Tirthankar Dhali,
Mr. Moyukh Mitra,
Mr. Apalak Basu ...for the Petitioner.

Mr. Y. J. Dastoor, Ld. ASG,
Mr. Phiroze Edulji,
Mr. Amajit De ...for the CBI.

This is an application seeking grant of bail pending trial. Reference is made to the provisions of Section 436A, apart from Section 439 Cr.P.C. in support of the application.

The petitioner stands covered by charge sheet no. 11/2015 dated 12.6.2015 and supplementary charge sheet no.03/2016 dated 25.1.2016 in CBI/SCB/SIT/KOLKATA CASE No.RC-53/S/2014 dated 27.09.14 for offences punishable under sections 420, 409 & 120B of the Indian

Penal Code read with Sections 4 and 6 of the Prize Chits & Money Circulation Scheme (Banning) Act, 1978.

Learned Counsel for the petitioner took us through the various elements of Section 436A Cr.P.C. to buttress his contention that in the case in hand, the petitioner is entitled to bail in terms of that provision in view of the fact that he has undergone detention for more than one half of the period for which he could be punished. He has strenuously dilated on the opening paragraph of Section 436A and the two provisos thereto as well as the explanation falling under that Section. He argued that there is no situation where the period of detention passed is due to delay in proceeding caused by the accused.

Learned Additional Solicitor General, in answer to the aforesaid argument on Section 436A, points out that in terms of Section 409 IPC, which is one of the provisions under which the petitioner stands charged, the maximum punishment that could be imposed is imprisonment for life. We see that the said provision would apply in relation to matters falling within the domain of entrusting property or having domain over property in the capacity of very many identities including merchant, factor, broker, attorney or agent apart from banker.

Learned Additional Solicitor General relied on Section 57 of the Indian Penal Code to point out that the law is to the effect that in calculating fractions of terms of punishment,

imprisonment for life shall be reckoned as equivalent to imprisonment for 20 years. He thus argued that the foundation of plea for bail under Section 436A is absent.

Taking into consideration the contents of Section 409 and the prescription of Section 57 of the Indian Penal Code, we cannot but uphold the plea of learned Additional Solicitor General in that regard. We, accordingly, reject the plea of bail under Section 436A of the Code of Criminal Procedure.

Proceeding to consider the application insofar as it could be under Section 439 Cr.P.C., learned Counsel for the petitioner persuasively points out that the petitioner is in prison from 17.3.2015 either in the hands of the local police or later on, in the hands of the CBI and his health condition includes diabetes mellitus and the age factor of around 68 years of age may also be considered sympathetically. He points out that the prosecution can have no case that the entire evidence as required for the prosecution is yet to be harvested and made available to the Trial Court. There can also be no situation which warrants continuance of the person in custody during the entire trial when it would appear from the totality of the facts and circumstances that the trial of this case would not end in the near future.

Learned Additional Solicitor General, opposing the application for grant of bail under Section 439 Cr.P.C., argues that this is one of those cases which falls under the domain of not merely economic offences simpliciter, but is of

such nature which has had drastic impact on the citizenry. He points out that large sums have been virtually looted by processes which definitely fall under Sections 409, 420 and 120B of the Indian Penal Code as well as the provisions of Prize Chits & Money Circulation Scheme (Banning) Act, 1978. He further argues that this is not one of those cases where sympathy for the under-trials, who are in jail for a long time on account of pendency of cases, is a criterion since such an issue would necessarily have to be balanced having regard to the impact of the crime particularly because of the seriousness of the social and financial impacts of the acts attributed to the petitioner.

Having considered the materials on record, we are of the view that while this is a case where the Trial Court should take necessary efforts to expedite the trial and final disposal of the case, the superior courts where matters are pending either by way of revisional application or appeal should also to expedite consideration of any such interlocutory matters in the form of appeals or revisions pending at that end.

Yet, we are of the view that the substance of the allegations against the petitioner and the quality of the materials, which are shown to have been placed before the Trial Court, as also the potential of the accused persons including the applicant to create hurdles in the trial necessarily dissuade us from granting bail. We see that the accused persons including the petitioner are persons to be

reckoned as capable enough to interfere with the course of trial, influence witnesses and also try to tamper with evidence, particularly when it remains a contentious issue between the petitioner and the CBI that the entire electronic data harvested following raids and seized by the CBI are not appropriately available or made over as requisite copies capable of being utilized in defence by the accused.

On the whole, we are satisfied that this is not a fit case where bail is to be granted to the petitioner at this point of time.

For the aforesaid reasons, insofar as it is under Section 439 Cr.P.C., the application also fails and in the result, it is dismissed along with CRAN 1159 of 2020.

Urgent Photostat Certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Thottathil B. Radhakrishnan, C.J.)

(Arijit Banerjee, J.)

