19.09.2022
KC (7)

C.R.M.(A) 258 of 2022

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure.

In the Matter of : Debabrata Ghosh @ Chandi
.... petitioner.

Mr. Kishore Dutta, Sr. Adv.,
Mr. Sandipan Ganguly, Sr. Adv.,
Mr. Karan Dudhewala……………………For the petitioner.

Mr. Arun Kumar Maiti (Mohanty),
Mr. Jasojeet Mukherjee…………………For the C.B.I.

This is an application for anticipatory bail.

The petitioner is accused in a large ponzi scam.

The case is of 2012. The Central Bureau of Investigation took up the case in 2017. Charge-sheet has been submitted.

Mr. Dutta, learned senior advocate for the petitioner submitted that the petitioner was lured into advancing Rs. 1.71 crores to the organisation in question. When the organisation was unable to return the money, it appointed him as a director in two of its companies on 29th December, 2011 and 2nd January, 2012. Apparently realising the ill motive the petitioner resigned on 31st March, 2012.

Learned counsel for the petitioner has placed the document at page 75 of the petition entitled "CHARGE" where it is stated that the petitioner has cooperated in the investigation. He also submitted that all the properties of the organisation have been attached by the SEBI.

On the other hand, learned counsel for the Central Bureau of Investigation has very strongly opposed the grant of anticipatory bail. He has relied on the report of the Central Bureau of Investigation filed in this court in this proceeding where in paragraph 12 it is enumerated as follows:

> "12. That, it is humbly submitted that the investigation, u/s 173(8) of Cr.P.C. of the instant case is still going on to trace the larger conspiracy and money trail. The Forensic Audit of ATM Group of Company is going on to trace the more beneficiary of the money collected from gullible investors through illegal means by cheat them. So, the in future, the custodial interrogation of the accused cannot be ruled out. Further, the investigation related to trace out the property of the company as well as promoters is still going on. It is submitted that the accused petitioner has disposed of one of his properties which may be purchased with the hard earn money of gullible investor. He is one of the director and prominent person of the company. It is submitted that he is very influential person and it is highly probable that he may tamper the evidence and influence the witnesses. The chances of his fleeing away cannot be ruled out."

Learned counsel submits that the larger conspiracy angle and the money trail are now being very extensively investigated by the agency and only when the petitioner is in custody all the persons involved in the conspiracy and the "money trail" could be properly identified resulting in realisation of the mis-appropriated sum. He also submits that the petitioner has sold one of his properties.

From the narration of the above facts, it is quite clear that the petitioner was not absconding. In fact, he had cooperated in the investigation. Whatever had to be unearthed on investigation has been done. What could not be unearthed in so many years is unlikely to be unearthed now, no matter what effort is put into investigation by the Central Bureau of Investigation.

In those circumstances, it would only be proper for the prosecution to prosecute the case diligently and ensure that it is concluded as early as possible.

We do not think that custodial interrogation of the petitioner is required. Hence, we allow this application for anticipatory bail on the following terms:

We direct that in the event of arrest the petitioner shall be released on bail on furnishing security of Rs. 10,000/- (Rupees Ten Thousand) with personal release bond of equivalent value to the satisfaction of the arresting officer.

The petitioner will also comply with the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

We impose further conditions that:

(a) The petitioner shall immediately deposit his passport with the investigating officer.

(b) He shall appear before the investigating officer for interrogation as and when summoned.

(c) He shall not leave the limits of the district of Paschim Medinipur without informing the investigating officer of the details of his whereabouts.

(d) The petitioner shall appear before the court below and pray for regular bail within a period of four weeks from date.

CRM(A) 258 of 2022 is disposed of.

(I.P. MUKEERJI, J.)

(BISWAROOP CHOWDHURY, J.)