*ASR*

*102.* **16.08.2022**

**allowed**

**C.R.M. (DB) 2288 of 2022**

In Re : An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with CBI, EO-IV, Kolkata Case No. RC 7/E/2018-Kol dated 30.10.2018.

**In Re : Chandra Sekhar Sabat**

**….Petitioner**

Mr. Jaydeep Biswas

……for the petitioner

Mr. Anirban Mitra

…….for the C.B.I

The petitioner was allegedly involved in a very large Ponzi scam. As President of the organization he was accused of offences under Section 409 of the Indian Penal Code read with Section 5 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978.

Learned counsel for the petitioner denies that his client was President of the Organization at the material point of time, contending that he had resigned in 2011, which was not accepted by the Organization. Subsequently, by a newspaper notification dated 25th May, 2011, he had announced his non-involvement with the Organization.

The criminal case was started against the petitioner in 2014 and taken over by the C.B.I. in 2018. On 9th

December, 2020, he was arrested. He is now in custody for about one year eight months and eight days.

On 30th December, 2020 a charge-sheet was filed against him followed by a supplementary charge-sheet on 5th March, 2022.

Learned counsel for the petitioner submits that a co-accused namely Pranab Chatterjee was granted bail by this court on 16th June, 2022.

What according to us is most significant in his submission is that, by the order of the learned 5th Special Court, Asansol, it was held that the case against his client under Section 409 of the Indian Penal Code, 1860 was not maintainable and that it was triable by the learned Chief Judicial Magistrate, Asansol.

If Section 409 is not attracted then the maximum punishment that the accused would suffer on conviction is two years.

However, according to Mr. Mitra, learned counsel appearing for the C.B.I Rs. 85 crores have been identified by the agency and following the trail they would be able to identify mis-appropriation exceeding Rs. 100 crores shortly. Then they would submit a final charge-sheet. If the accused is released on bail he would tamper with evidence and interfere with witnesses._

He very strongly submits that this bail application should be rejected.

Our views are as follows :

The case is eight years old. It is with the C.B.I. for four years or more.

The petitioner is already in custody for over one year and eight months.

After the order dated 16th June, 2022 of the learned Special Court the maximum punishment he could suffer is only two years out of which one year eight months has been spent in custody.

Investigation is complete. Charge-sheet has been submitted.

A co-accused is already released on bail.

In **Nimmagadda Prasad -Vs. Central Bureau of Investigation** reported in **(2013) 7 Supreme Court Cases 466** cited by Mr. Mitra, the Supreme Court opined as follows :

***24. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable apprehension of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger***

***interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the legislature has used the words "reasonable grounds for believing" instead of "the evidence" which mans the court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.***

***25. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offence having deep-rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as a grave offence affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.***

***26. Taking note of all these aspects, without expressing any opinion on the merits of the case and also with regard to the claim of CBI and the defence, we are of the opinion that the appellant cannot be released at this stage, however, we direct CBI to complete the***

***investigation and file charge-sheets(s) as early as possible preferably within a period of four months from today. Thereafter, the appellant is free to renew his prayer for bail before the trial court and if any such petition is filed, the trial court is free to consider the prayer for bail independently on its own merits without being influenced by dismissal of the present appeal.***

In the un-reported decision of the Supreme Court in **Republic of India (C.B.I) –versus- Ashis Chatterjee** decided on 9th November, 2019, also cited, by Mr. Mitra the Supreme Court expressed the following view :

***8. This Court is conscious of the need to view such economic offences having a deep-rooted conspiracy and involving a huge loss of investors money seriously. Though further investigation is going on, as of now, the investigation discloses that the Respondent played a key role in the promotion of the chit fund scam described supra, thereby cheating a large number of innocent depositors and misappropriating their hard-earned money.***

***9. We are of the prima facie view that if the Respondent continues on bail there is little chance of realising any amount by selling the properties of the Tower Group of***

***companies, since he may use unlawful tactics to keep prospective buyers away. Moreover, it is relevant to note that the investigation agency has not yet assessed the exact total amount invested by the people of Orissa in the accused company, so as to find out the specific liability of the company in that regard. However, it is argued by both the Counsel that the amount may be about Rs. 350 crores. Be that as it may, having regard to the material on record, and since a huge amount of money belonging to investors has been siphoned off, as well as for the aforesaid reasons, the High Court in our considered opinion, should not have released the Respondent on bail.***

In the above cases, as in this one, serious and very large scale economic offences were involved. The Court was dealing with the nature and gravity of the offence which a bail court should consider while hearing an application for bail.

The investigation was far from complete. The court was convinced that as investigation proceeded the nature magnitude and seriousness of the offence would continue to be revealed. If the accused was released on bail he would interfere with that process.

In this case, the prosecution had eight years time to investigate. After filing of the charge-sheet and supplementary charge-sheet it is to be presumed that investigation is over and nothing much may be expected out of further investigation. A co-accused is enlarged on bail.

However, considering the claim made by Mr. Mitra that C.B.I would very shortly be able to unearth more ingredients of the offence and file a final charge-sheet, we grant the agency two weeks time to complete the process of investigation, after which the petitioner would automatically be enlarged on bail.

Subject to the above, we allow this application for bail.

The Petitioners will be released on bail on and from 1st September, 2022.

Considering all the above circumstances, we direct the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/- with two sureties each of like amount, on of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Paschim Bardhaman, Asansol, subject to condition that the petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fail to appear before the trial court shall be at liberty to cancel his bail in accordance with law without further reference of this court.

He will not leave the limits of Paschim Bardhaman District without informing the Investigating Officer.

He will also deposit his passport with such Officer within seven days.

The application for bail (CRM (DB) 2288 of 2022) is, accordingly, disposed of.

**(Subhendu Samanta J.)** **(I. P. Mukerji, J.)**