

10.02.2022
cm/ct 28
sl no. 6

C.R.M. 7943 of 2021

In Re : An application for Anticipatory bail under section 438 of the Code of Criminal Procedure in connection with the Investigation of CBI, Eo-IV Kolkata Case No. RC-18(E)/2017-Kolkata against EM Bank Agroecological Ltd.

And

Rejected

In Re : Amitava Biswas

..... petitioner

Mr. Shankha Shubhra Mukherjee
..... for the petitioner

Mr. Y.J. Dastoor, Ld. A.S.G.
Mr. Phiroze Edulji
Mr. Samrat Goswai
... for the State.

It is submitted on behalf of the petitioner that he is innocent. He has been granted pre-arrest bail in Howrah P.S. Case No. 408 of 2012 dated 20.06.2012. Subsequently, investigation was taken over by C.B.I. Hence, he apprehends he may be arrested in spite of the order passed by this Court.

Learned Counsel for the C.B.I. submits that the petitioner is one of the principal accuseds who had duped number of depositors by inducing them to make deposits in illegal financial schemes floated by the company concerned and misappropriated a sum over Rs. 3 crores. Pursuant to the direction of the Apex Court in **Subrato Chatteraj Versus Union of India and Ors**¹, C.B.I. took over investigation and the FIR in Jaigaon P.S. case No. 176/2013 dated 12.08.2013 was treated as First Information Report of the

¹ 2014(8) SCC 768

instant case. Other criminal cases registered against the company over the affairs of M/s. EM Bank Agroecological Limited against the petitioner & others, namely, Barasat P.S. Case No. 973/2013, Howrah P.S. case No. 264/2013 and Siliguri P.S. Case No. 481 dated 08.05.2013 were clubbed with this case. Petitioner has not been granted pre-arrest bail any of the aforesaid cases. Dum Dum P.S. case No. 408 of 2012 dated 20.06.2012 in which petitioner has been granted pre-arrest bail has not been clubbed with the present case. Hence, the prosecution in the instant case is clearly independent of the criminal case in which the petitioner has been granted pre arrest bail.

We have considered the materials on record. Petitioner was the Managing Director of M/s. EM Bank Agroecological Limited which had collected a sum over Rs. 3 crores from poor depositors under various investment schemes without permission of the RBI. Petitioner played an active role in the conspiracy which has duped innumerable depositors. He did not cooperate with investigation and warrant of arrest has been issued against him. It appears that pre-arrest bail has been granted to the petitioner in connection with Dum Dum P.S. case No. 408 of 2012 dated 20.06.2012. However, instant case which was registered by C.B.I. is independent of that case and investigation conducted herein is more extensive and comprehensive in nature. Thus, pre arrest bail granted to the petitioner in the other cases does not have bearing on the plea of anticipatory bail of the petitioner in the present one. Under such circumstances, keeping in the mind the gravity of the

offence, affecting innumerable depositors who lost their hard earned money, prima facie involvement of the petitioner therein and the fact that he absconded and warrant of arrest has been issued against the petitioner, we are not inclined to grant pre arrest bail to him.

Accordingly, the prayer for anticipatory bail is rejected

The application being CRM 7943 of 2021 is disposed of.

(Bivas Pattanayak, J.)

(Joymalya Bagchi, J.)