

29.11.2022

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sdas/PA

Allowed

C.R.M. (DB) No. 3884 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Special CBI Case No. 01 of 2022 dated 27.11.2020 under Section 120B read with Sections 379/409/420/467/468/471/411/413/414 of the Indian Penal Code read with Sections 7/8/13(2)/13(1)(a) of the Prevention of Corruption Act read with Section 21 of the Mines and Minerals (Development and Regulation) Act.

And

In Re : Subhash Chandra Moitra @ Maitra petitioner

Mr. Sandipan Ganguly, Sr. Adv.

Mr. Karan Dudhwewala

.....for the petitioner

Mr. Anirban Mitra

Mr. Somnath Adhikary

....for the C.B.I.

Learned Counsel appearing for the petitioner submits that petitioner is in custody for 140 days. He is an employee of Eastern Coal-fields Limited. He has been falsely implicated in the instant case. Principal accused i.e. Anup Majee @ Lala has been protected from arrest by the order passed by the Hon'ble Apex Court. Legality of investigation of the case is under challenge in the said proceeding. He prays for bail.

Learned Counsel appearing for the CBI opposes the prayer for bail and submits petitioner was the Chief Manager/H.M. of Nimcha Group of Mines under ECL Satgram area since August, 2017. One of the associates of Anup Majee @ Lala made statement before the learned Magistrate that he

bribed the petitioner. Further investigation is in progress. Accordingly, he opposes the prayer for bail.

We have considered the materials on record. Allegations involve indiscriminate pilferage of coal from various mines controlled by ECL. Nimcha is one of such Group of Mines. Petitioner was associated with ECL since 2012. He was in charge of the Nimcha Group of Mines under ECL from 2017 onwards.

From the report submitted by the learned Counsel appearing for CBI it appears the principal accused i.e. Anup Majee @ Lala and his associates in collusion with various other persons had illegally pilfered coal from various mines between 2015-2020. During the said period extent of pilferage from the Nimcha Group of Mines is to the tune of 11,05,744,49 metric tons of coal worth Rs. 459,59,00,396/-

Admittedly, the petitioner was not in charge of the mines for the entire period. Allegation of bribe to the petitioner from an associate of Anup Majee @ Lala relates to the year 2018-19 and there is no corroborative evidence, i.e., recovery, money trail etc. in support of such allegation. Principal accused, Anup Majee @ Lala is protected from arrest by the order passed by the Hon'ble Apex Court in Special Leave to Appeal (Crl.) Nos. 1620-1621 of 2021. Legality of the investigation is under challenge in the said proceeding. During the continuation of the investigation, petitioner was arrested and an initial police report has been filed. Though further investigation is in progress, trajectory of such investigation does not relate to the petitioner but a larger

conspiracy. Hence, continued detention of the petitioner for the purpose of further investigation is not necessary.

With regard to tampering of evidence and/or influencing witnesses, we are of the opinion such apprehension may be adequately addressed by imposing appropriate restrictions upon the petitioner. In view of the aforesaid circumstances particularly as the principal accused is protected from arrest and investigation so far as the involvement of the petitioner in the crime is substantially complete, we are of the opinion that further detention of the petitioner is not necessary and he may be released on bail.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.50,000/- (Rupees Fifty Thousand Only) with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special CBI Court, Asansol at Paschim Bardhaman, on conditions that while on bail the petitioner shall not enter the jurisdiction of the following districts, namely, Paschim Medinipore, Purulia and Bankura except for the purpose of further investigation and/or attending court proceedings and shall provide the address where he shall presently reside to the investigating agency as well as court below and shall report to the investigating officer, namely, Umesh Kumar as and when necessary until further orders. Petitioner shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever and shall appear before the trial court on every date of hearing. In the event he fails to comply with the aforesaid

conditions, the trial court shall be at liberty to cancel his bail without further reference to this Court.

The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)