29.11.2022
Sl.No. 6
Ct. 03
Amalranjan

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION
APPELLATE SIDE

CRM (DB) 3976 of 2022

Raju Sahani
Vs.
Central Bureau of Investigation

In Re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973.

In Re: Raju Sahani ...Petitioners (In Jail)

Mr. Milon Mukherjee, Sr. Adv.
Mr. Debasis Roy
Mr. Sandip Chakraborty
Mr. Suvendu Hazra
Mr. Kaustav Das
... for the petitioner
Mr. Arun Kumar Maiti (Mohanty)
Mr. Anirban Mitra
..... for the CBI

The petitioner was allegedly involved in a large ponzi scam. The incident is of 2013. In 2014 a case was registered in the local police station at Kulti. The petitioner was not named in the first information report.

In October, 2018 the Central Bureau of Investigation (CBI) took over the investigation. On 30th December, 2020 a chargesheet was filed under Section 173(2) of the Criminal Procedure Code. The petitioner was not named in it. Neither his name appeared in the supplementary chargesheet, under Section 173(8) of the Code filed on 5th May, 2022.

He was arrested on 2nd September, 2022.

88 days have elapsed since then. If two more days elapse and chargesheet is not filed against him, he would be enlarged on bail under Section 167 of the Code.

A co-accused is already enlarged on bail by the order of this court dated 16th August, 2022.

The above facts are recorded on the basis of the submissions made by Mr. Milon Mukherjee, learned senior counsel.

Mr. Arun Kumar Maiti (Mohanty), learned advocate for the Central Bureau of Investigation submits that the said agency has been able to identify the trail with regard to the alleged offence to foreign bank accounts of the petitioner in Hongkong and Bangkok. Rs. 80 lakhs in cash have been recovered from him. Some landed property has also been detected. Furthermore, the petitioner is not on the same footing as the accused who was enlarged on bail on 16th August, 2022.

Mr. Maiti submits that CBI would be able to file the chargesheet within a day or two.

Our view is as follows:

The case is almost ten years old.

Although the Supreme Court by its order dated 9th May, 2014 had directed investigation into ponzi scams which included the alleged scam in which the petitioner was involved, the CBI could only start the case in October, 2018.

More importantly, the name of the petitioner did not figure in the first information report, in the chargesheet filed on 30th December, 2020, some seven (7) years after the alleged incident and also in the supplementary chargesheet which was filed in 5th May, 2022.

It appears that the CBI became active with regard to the petitioner only from September, 2022 when he was arrested. But still 88 days have elapsed and no chargesheet has been filed against the petitioner.

Considering the above submissions, we pass the following order:

Even if the CBI is able to file a chargesheet against the petitioner within 90 days in the learned court below, they are just given three (3) weeks time from date to complete the investigation, after which the petitioner shall automatically be released on bail. If they are unable to file the chargesheet before the learned court below within time, the learned trial court shall be at liberty to release the petitioner on bail if the petitioner applies for bail under Section 167 of the Cr.P.C. The learned court below shall consider and dispose of it, in accordance with law.

If the petitioner is enlarged on bail further to the order of this court it shall be subject to the following conditions:

The petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/- with two sureties each of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Paschim Bardhaman at Asansol, subject to the conditions:

1. The petitioner shall deposit his passport, if he has any, with the investigating officer within three days,
2. He shall meet the investigating officer as and when summoned and also to cooperate in any further investigation,
3. He shall not leave the limits of Kolkata without informing the investigating officer,
4. He shall not tamper with evidence or interfere with the witnesses in any manner,
5. The petitioner shall attend the court on each and every day of trial, in default the court shall be at liberty to cancel his bail bond in accordance with law without further reference of this court.

The application for bail is, accordingly, disposed of.

(Biswaroop Chowdhury, J.)   (I.P. Mukerji,J.)