IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.939 of 2022

Sajahan Middya …. ***Petitioner***
Mr. C. Mishra, Advocate

-versus-

Republic of India (CBI) …. ***Opp. Party***
Mr. S. Nayak, Adv. (CBI)

CORAM:
JUSTICE G. SATAPATHY

ORDER
17.11.2022

Order No.

04. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

2. This is an application U/S. 439 of Cr.P.C. by the petitioner for grant of bail in connection with SPE Case No.31-A of 2014 arising out of CBI/SCB Kolkata F.I.R. No.RC.36/S/2014-Kol pending in the Court of learned Special Judge (CBI)-I-cum-Addl. Sessions Judge, Bhubaneswar for commission of offences punishable under Sections 120-B/420/409 of I.P.C. read with Sections 4/5/6 of Prize Chits and Money Circulation Schemes (Banning) Act, 1978, on the allegation of collecting money from general public as investment in Fixed Deposit(F.D.), Recurring Deposi(R.D.) and Monthly Income Scheme(M.I.S.) without any authority by alluring the investors in promise of high returns with high rates of interest and accordingly the investigation reveals about misappropriation of huge sum of money in crores.

3. In the course of hearing of the bail application, Mr. Chinmaya

Mishra, learned counsel for the petitioner submits that the petitioner is inside jail custody since 08.03.2021 and the allegation appearing against the petitioner is misappropriation of an amount of Rs.1,06,42,700/-, but admittedly no investors have come forward to lodge an FIR against the petitioner nor was it like that the investors have been cheated by the petitioner and one of the co-accused namely Biswambar Pradhan has already been granted bail by this Court and the petitioner has never intended to cheat anybody, but the petitioner was lodged in the jail on false allegation. It is further submitted that FIR was not lodged against the present petitioner but during course of investigation with perfunctory materials, CBI has roped the present petitioner in this case. It is accordingly prayed by the learned counsel to enlarge the petitioner on bail.

4. On the contrary, Mr. Sarthak Nayak, learned counsel for CBI submits that the petitioner was arrested with much difficulty after six years of the registration of the FIR and that too, the petitioner when did not respond to the notices of the CBI during the course of investigation and such notice was issued more than once, but the petitioner did not appear before the Investigating Officer and the preliminary charge-sheet submitted in this case itself discloses that the Investigating Officer was constrained to submit the charge-sheet by showing the petitioner as absconder. It is further submitted that during the course of investigation, a number of depositors around 1000 were found to have been duped by the company of the petitioner for more than Rs.30,00,00,000/-(Rupees thirty crores) and the petitioner has also some criminal antecedents in the State of Jharkhand and West Bengal. Further, it is submitted that in obedience to the order of the Apex Court passed in W.P.(C) No. 413 of 2013,

the C.B.I. registered the present case by taking over Kumbharapada P.S. Case No. 150 of 2013 which was registered on the complaint of A.S.I. of Kumbharapada and in the course of investigation, cheating of huge sum of money from general public was unearthed. It is also submitted by him that co-accused is still absconding and release of the petitioner on bail would encourage him to repeat the offence and to avoid the process of the Court. It is further submitted by him that the person namely, Biswambar Pradhan who was stated to be enlarged on bail has not been charge-sheeted in this case for want of criminality on his part or his involvement in this case. In the course of argument, Mr. Sarthak Nayak, learned counsel for CBI has also submitted that the investigation discloses that the company M/s. Shine India Agro Industries Limited was neither registered with SEBI nor had got any permission to collect investment from public in the form of cash deposit, RD or FD and the money collection business of M/s. Shine India Agro Industries Limited which was represented by the petitioner as one of the Director was not falling within the purview of Reserve Bank of India and as such, the company could not have collected funds from general public, even under any provision of Reserve Bank of India Act, 1934 and thereby, the money collection business by the company was illegal. On the aforesaid submissions, learned counsel for CBI prays to reject the bail application of the petitioner.

5. Mr. Chinmaya Mishra, learned counsel for the petitioner by way of clarification submits that although it is submitted that notice was issued against the petitioner, but he had never received any such notices and, thereby, he had no occasion to appear before the Investigating Officer.

6. Considering the rival submissions made, nature and gravity of accusations raised against the petitioner as also the gravity of economic offences alleged against the petitioner and the fact that the petitioner was arrested after more than six years of the occurrence and keeping in view the quantum of money involved in this case and the allegations raised against the petitioner for collecting huge amount of money without having any permission of statutory body like SEBI and the allegation that a number of people have been duped by the company of the petitioner and further regard being had to the alleged involvement of the petitioner in other cases in the State of Jharkhand and West Bengal as submitted, this Court considers it undesirable to grant bail to the petitioner.

7. Hence, the prayer for bail of the petitioner stands rejected.

8. Accordingly, the BLAPL stands disposed of.

9. Issue free copy of the order as per Rules.

(G. Satapathy)
Judge

Subhasmita