D/L. 8.
July 12, 2023.
MNS.

WPA No. 15144 of 2023

Santosh Kumar Dey
Vs.
The Managing Director, State Bank of India and others

Mr. Debabrata Karan,
Mr. Debopriyo Karan

… for the petitioner.

Mr. Debasish Saha

…for the State Bank of India.

Mr. Biswabrata Basu Mallick,
Mr. Biman Halder

…for the State.

Affidavit-of-service filed in Court today be kept on record.

The report filed by the Criminal Investigation Department (CID) be kept on record.

Learned counsel for the State Bank of India (SBI), upon repeated questioning by the court, as to under which provision the amount of the Fixed Deposits (FDs) of the petitioner has been withheld, chooses to avoid the question deliberately and upon asking at least for five times, learned counsel chooses not to answer the question, but only relies on certain conjectures.

The grievance urged in the writ petition is that the petitioner, an octogenarian, sought to withdraw the sum lying in his Fixed Deposits, but the SBI is withholding it.

Learned counsel appearing for the SBI vociferously submits that several court cases and investigations are pending with regard to the amount lying in the account of the petitioner, which is the account linked with the FDs-in-question.

It is also submitted that the said investigations are at present sub judice and all the monies are interconnected. As such, in the event, the money is siphoned out by the petitioner in the manner as sought in the writ petition, there would be no remedy even if it is found that the petitioner's son is directly involved in the racket involving such money.

Learned counsel appearing for the CID submits a report. In the said report, it is seen that several investigations and court cases are pending. Under the caption "Submission of IO", the CID has disclosed that an investigation is continuing under Section 173(8) of the Criminal Procedure Code to fix up "other gang members" of this fraud group and for recovery of remaining part of total “fraud money” of Rs.18,21,76,463.91/-.

In the next sentence, it is stated that one Sri Saptarshi Dey did not appear before the First Court of Additional District Judge, Paschim Medinipur with his submission to de-freeze the SBI A/c No. 10171592144, which is the Savings Bank Account linked with the petitioner’s FDs.

It is further stated that the transactions made in the said Savings Bank Account during the period form June 23, 2020 to June 30, 2020 is not usual and conduct of Sri Saptarshi Dey was not found proper on several grounds.

The grounds virtually seek to indict the said Saptarshi Dey, on the allegation that he used illegal money for personal use.

However, it does not appear from any of the materials on record, which have been submitted either by the CID or in the writ petition, that the petitioner has any direct nexus with the criminal investigation.

Upon query by the Court, learned counsel appearing for the CID clearly discloses that the present writ petitioner is not an accused, nor a witness in connection with any of the criminal investigations going on against Saptarshi Dey.

Although the said Saptarshi Dey is the son of the petitioner, there is no law, at least in this country, which can entitle the bank to freeze the amount which is due to an octogenarian, upon the said customer of the SBI seeking to close his FDs prematurely, on the allegation that criminal proceedings are pending against his son in different courts of law.

In fact, the bank has no authority, in the absence of any freezing order produced by the CID and/or any injunction or attachment order passed by any competent court of law whatsoever, to withhold the amount lying in the FDs of the petitioner, which is not connected in any manner with any criminal investigation whatsoever.

Even if there are allegations of money laundering and there was a specific allegation under the relevant law in that regard that the money lying in the FDs of the petitioner is “proceeds of crime” under the relevant Statute, there could have an apprehension on the part of the SBI.

However, nothing being disclosed on that score, the SBI acted entirely without authority in withholding the FD amounts of the present petitioner, which is in no way connected with the criminal investigation apart from the bank's allegation that the petitioner's son is one of the accused persons therein.

The petitioner himself is neither an accused, nor a named witness in the criminal cases.

Even if, proceeding on the allegations, it is deemed that the said Saptarshi Dey, the son of the petitioner, had been operating the SB account of the petitioner, there is no scope of withholding the petitioner's FDs, which are lying with the SBI, merely due to the fact that the same is linked with the SB Account with the petitioner, which is allegedly tainted in view of the investigation.

Hence, there being no direct allegation that the amount lying in the FDs of the petitioner is proceeds of crime and/or in the absence of any freezing or injunction order from any other competent court of law in that regard, the impugned action of the SBI in withholding the amount of the FDs of the petitioner is patently illegal and has to be set aside.

Accordingly, WPA No. 15144 of 2023 is allowed, thereby directing the SBI to immediately undertake the relevant procedure for disbursing the amounts lying in the FDs of the petitioner with the said bank, as mentioned in the present writ petition, bearing Account Nos. 31450475459, 3145047603 and 32474448207, amounting to Rs.7,00,000/-. Such amounts shall be disbursed to the petitioner at the earliest, preferably within one month from this date.

However, insofar as the amount lying in the SB A/c No. 10171592144 in the name of the petitioner in the Garfa Branch of the State Bank of India is concerned, the order of freezing the said amount issued by the Bank shall not be affected in any manner by any of the observations made herein. Such freezing of the SB A/c only shall be subject to the outcome of the pending criminal litigations.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)