

JPD-37
Ct No.01
21.09.2023
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (DB) 458 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 11.08.2023 in connection with Alipurduar Police Station Case No. 187 of 2013 dated 30.04.2013 under Sections 420/406/409/120B IPC, 1860.

And

In the matter of: Apurba Karjee

.... petitioner

Mr. Arnab Saha

....for the petitioner

Mr. Sudipto Kr. Mazumder, Ld. DSG,
Mr. Ajoy Kr. Singhanian,
Mr. Sudip Kr. Paul,
Mr. Sourab Kar

....for the CBI

1. Learned counsel for the petitioner argues that a co-accused person on similar footing has been enlarged on bail. Further, it is contended that charge-sheet has already been submitted and the investigation is over. Hence, the petitioner ought not to be incarcerated further.
2. Learned Deputy Solicitor General appearing for the CBI seriously opposes the application for bail and submits that one of the other accused persons was refused anticipatory bail even after the co-accused person was granted bail, also by a coordinate Bench. Further, the nature of the allegation is that the petitioner and the other co-accused are actively involved in a Ponzi Scheme. It is submitted that after the CBI took over the

investigation in the year 2021, the investigation was expedited and the petitioner has been arrested. In the event the petitioner is released on bail, it is submitted, it would directly affect the trial. Further, it is submitted that the petitioner embezzled huge sums of money and the involvement of the petitioner is grave.

3. Upon considering the competing orders, one granting bail and one refusing anticipatory bail to two of the co-accused persons, we are of the opinion that the coordinate Bench, which refused the grant of anticipatory bail to a co-accused person on August 16, 2023, did not take into consideration the fact that another co-accused person had been released on bail the previous month, that is, on July 11, 2023. It does not transpire from the said order of refusal of anticipatory bail that such argument was made on behalf of the petitioner therein or that the fact was pointed out to the said Bench by either of the parties.
4. In the order of grant of bail dated July 11, 2023, the other coordinate Bench observed that upon giving due consideration, the Bench was satisfied that in course of investigation sufficient incriminating materials have been collected by the Investigating Agency and that it is not a fit case for custodial trial.
5. Upon a careful perusal of the charge-sheet, we find that the petitioner is on an exactly similar footing as the other co-accused person who was granted bail on July 11, 2023.

6. Hence, the same logic as was furnished by the coordinate Bench while granting bail to the other co-accused, namely, Sunil Kumar Sarkar, is also applicable to the present petitioner.
7. Despite the nature of the allegations made, since investigation has already been concluded and charge-sheet has been filed, as well as a supplementary charge-sheet, we are of the opinion that the same benefit as extended to Sunil Kumar Sarkar, a co-accused, ought to be granted to the petitioner, if not otherwise then on the ground of parity.
8. Accordingly, CRM (DB) 458 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish a bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Alipurduar.
9. The petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend each and every date of trial.
10. Further, the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

- 11.** In default of any of the conditions stipulated above, the bail granted to the petitioner shall be cancelled upon giving an opportunity of hearing to the petitioner.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)