

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

09.03.2023.
11/tkm

C.R.M. (DB) 435 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Pradhannagar P.S case no. 578 of 2013 dated 2.11.2013 under sections 120B/420/409 of the IPC read with sections 4/5/6/ of the Prize Chits & Money Circulation Schemes Banking) Act, 1978

and

Allowed

In the matter of : Ashis Dhar

..... Petitioner

Mr. H Saha Poddar
Ms. M Das

...for the Petitioner

Mr. Kallol Mondal
Mr. Ajoy Kr. Singhanian

...for the CBI (virtual mode)

Petitioner is in custody for more than three years. He submits there is inordinate delay in trial. He prays for bail.

Learned lawyer for the CBI submits affidavit-in-opposition to the bail petition. He submits that the petitioner is one of the directors of the company which had misappropriated deposits made by various persons running to over Rs. nine crores. Charge has been framed and date has been fixed for recording evidence. He opposes the prayer for bail.

We have considered the materials on record. Petitioner is already in custody for more than three years. Though charge has been framed, prosecution proposes to examine not less than 40 out of 60 witnesses cited in the charge sheet. There is little possibility of trial concluding in near future.

It has been strongly contended that this is an economic offence which has caused financial ruin to innumerable depositors. Undeniably, the offence is a grave one. In *Satender Kumar Antil vs. CBI & Anr.*¹ the Apex Court carved out an exception for economic offences in the matter of bail. The Apex Court, *inter alia*, held a fine balance must be struck between the nature of economic offence on the one hand and the period of detention suffered by an under-trial on the other hand.

We have made an endeavour to do so. The offence involves an economic loss to the tune of Rs. 9 crores. Petitioner is in custody for more than three years and as noted earlier there is little possibility of trial concluding in near future. Balancing the aforesaid circumstances, we are of the opinion further detention of the petitioner is not necessary, but his movement requires to be restricted in order to ensure that there is no intimidation or influence upon the witnesses.

Accordingly, the petitioner be released on bail upon furnishing 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 ACJM, Siliguri on condition that the petitioner shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that the petitioner shall reside within the district of Cooch Behar until further orders and while on bail he shall not enter the State of Assam.

¹ (2022) 10 SCC 51

He also shall not enter the districts of Darjeeling and Jalpaiguri except for the purpose of attending court proceeding and shall provide address where he shall presently reside to the investigating officer as well as to the court below and shall report to the officer in charge of the P.S concerned within whose jurisdiction he shall presently reside once in a month until further orders.

In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application being CRM (DB) 435 of 2022 is disposed of.

(Subhendu Samanta,J.)

(Joymalya Bagchi, J.)