

12.03.2024

Item No.1

Ct. No. 29

CHC

Rejected

C.R.M.(A) 846 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **M.L.Case No.16 of 2023**, currently pending before the Court of the Learned Special (CBI) Court No.1, Calcutta, being the Special Court (designated under the Prevention of Money Laundering Act, 2002) punishable under Section **4** of PMLA, 2002 read with Section **70** of the PMLA 2002.

And

In the matter of : Shahjahan @ Sk Shahjahan

..... petitioner

Mr. Sabyasachi Banerjee,

Mr. Avik Ghatak,

Mr. Gourav Dutta

....for the petitioner

Mr. Dhiraj Trivedi, Ld. DSGI

Mr. Arijit Chakrabarti,

Mr. Deepak Sharma

....for the Enforcement Directorate

Petitioner prays for anticipatory bail.

Learned advocate appearing for the petitioner draws the attention of the Court to the provisions of the Prevention of Money Laundering Act, 2002 and in particular to Sections 3, 4, 17, 19 and 45 thereof. He draws the attention of the Court to the first complaint and also to the supplementary complaint. He submits that, the provisions of the Act of 2002 are not attracted so far as the petitioner is concerned.

Referring to the conduct of the investigating agency he submits that, petitioner was issued summons under the Act of 2002, which requires the petitioner to be present either personally or through a representative. He submits that, need for custodial interrogation is not there. Moreover, investigating authority did conduct a search and seizure. He points out to the supplementary complaint and submits that, no incriminating material was found as against the petitioner in the search and seizure.

Learned advocate appearing for the petitioner submits that, petitioner is already in custody with regard to another police case presently being investigated into by the Central Bureau of Investigation (C.B.I).

Therefore, he submits that petitioner be granted anticipatory bail in this case.

Learned Deputy Solicitor General submits that, in course of investigating, the investigating agency came across handwritten document of one of the co-accused which names petitioner as a recipient of proceeds of crime. He submits that role of the petitioner requires investigation particularly under the Act of 2002. In order to substantiate that a handwritten document of the co-accused was shown by the investigating agency, he relies upon a sealed envelope containing such documents. He submits that, there are at least 43 police cases as against the petitioner and that, petitioner is absconding in

some of them. He opposes the prayer for grant of anticipatory bail.

Sealed envelope produced on behalf of C.B.I. was opened in Court. We perused the content of such sealed envelope. We returned the contents and the sealed envelope to the learned Deputy Solicitor General, in Court.

Materials placed on record suggest that, the Enforcement Directorate (E.D) invoked the provisions of Act, 2002 as against certain accused persons and commenced investigation with regard thereto.

Materials placed before us suggests that in course of investigation, E.D came across a document indicating the involvement of the petitioner in the commission of offences governed under the Act of 2002.

Our attention was drawn to certain documents in Court both by E.D and the petitioner. On the basis of such documents, we cannot arrive at a finding that, E.D was acting without jurisdiction in invoking the Act of 2002 as against the petitioner.

In particular, our attention was drawn by E.D to a handwritten document by one of the co-accused indicating involvement of the petitioner.

There are criminal antecedents so far as the petitioner is concerned. Search and seizure on the first day could not be effected due to an incident of assault perpetrated on the officials of the E.D involved in such search and seizure. Element of

surprise was therefore as justifiably contended on behalf of the E.D, lost. Subsequent search and seizure threw up certain other documents.

Considering such materials which were placed before Court and considering the provisions of Section 45 of the Act of 2002, we are unable to grant anticipatory bail to the petitioner.

This application for anticipatory bail is, thus, rejected.

CRM(A) 846 of 2024 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)