IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO. 1613/2024

(Abhishek s/o. Manoj Jayaswal Vs. Central Bureau of Investigation, thr. Its Director & anr.)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Mr. D.V. Chavhan, Sr. Advocate a/w Mr. C. S. Dhore, Advocate for applicant.

CORAM: VINAY JOSHI AND ABHAY J. MANTRI, JJ.
DATED : 24/10/2024.

Heard.

2. By this application, the applicant is seeking to quash First Information Report ("FIR") bearing No. RC/223/2022/A/0008 registered by non-applicant No.1 Central Bureau of Investigation, and ECIR bearing No. ECIR/MGSZO/02/2023 registered by non-applicant No.2 Enforcement Directorate ("ED") for the offence punishable under Sections 120-B read with Section 420, 468, 471 of the Indian Penal Code and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act.

3. The applicant is Ex-Director of M/s. Corporate Power Ltd (CPL), which is formed as a special purpose vehicle promoted by Abhijit Group for stetting up coal base power project in the State of Jharkhand. The Company has raised huge fund from the consortium which is led by the Union Bank of India. Having been found fraudulent

activities on behalf of lead Bank, the authorized Bank Officer has lodged report vide communication dated 27.05.2021 based on various inspection and audit reports, on the basis of which crime has been registered. Later, ED found the act of money laundering which led to register ECIR for relevant provisions of law.

4. The learned senior counsel for the applicant took us through various study reports, Bank inspection reports, Forensic Audit and report of Chartered Accountant to impress that the affairs of the company were quiet summed and 90% money has been properly utilized. Even the consortium of Bank has agreed for restructuring of loan. We have been taken through various relevant material to contend that for change in government policy for cancellation of coal blocks, the prosecution against lead Company and for other reasons, the Company went into liquidation. According to the applicant, the action initiated by both the authorities based on report of the auditor cannot form basis for registration of FIR.

5. The learned senior counsel would submit that it is being exceptional case, investigation needs to be stayed by passing interim order.

6. We have given thoughtful consideration to the submission. It is revealed that the same petitioner has filed Writ Petition No. 5885/2024 seeking prayer that the action of lead Bank approaching Investigating Officer vide communication dated 27.05.2021 based on Forensic Audit

Report is illegal and bad in law. In-fact, the same issue has been re-agitated in this petition. The said petition is pending for adjudication. It is well settled that the valuable right of the Investigating Agency cannot be taken away by granting stay that too ex-parte without compelling reasons. The communication dated 27.05.2021 which is foundation for registration of crime and ECIR discloses that on internal investigation, it was found that certain transactions are suspicious. The borrower has manipulated the project cost and like the activities. In such background, we do not see any reason or exceptional case to stay the investigation.

7. Issue notice to the non-applicants returnable after six week.

8. In the meantime, investigation may go on, but charge-sheet shall not be filed without obtaining leave of this Court.

(ABHAY J. MANTRI, J.) **(VINAY JOSHI, J.)**

Gohane

Signed by: Mr. J. B. Gohane
Designation: PA To Honourable Judge
Date: 11/11/2024 11:08:50