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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ BAIL APPLN. 3167/2023

KIRAN KUMARI ..... Petitioner

Through: Mr. Rohit Kaliyar and Mr. Akarsh Mishra, Advs.

versus

THE CENTRAL BUREAU OF INVESTIGATION ..... Respondent

Through: Mr. Atul Guleria, SPP, CBI with Mr. Shubham Goyal, Ms. Primala Gehani, Mr. Tapan Sangal and Mr. Rahul Govil, Advs.
Inspector Sanjay Malhotra, CBI.

CORAM:
HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

O R D E R

% **16.04.2024**

CRL.M.A. 25559/2023

Exemption allowed, subject to just exceptions.

Application stands disposed of.

BAIL APPLN. 3167/2023

1. An application under Section 439 read with Section 167(2) of the Code of Criminal Procedure, 1973 (‘Cr.P.C.’) has been preferred on behalf of the petitioner for grant of regular bail in RC No. 0032023A0019 under Sections 120B/409/420 IPC, and Section 13(2) read with Section 13(1)(a) of the Prevention of Corruption Act, 1988 and Section 66D of the I.T. Act, 2000.

2. In brief, as per the case of prosecution, petitioner, who was working as an Officer Scale-I in Union Bank of India, Jafarpur Kalan Branch, in conspiracy, unauthorizedly and illegally closed 158 FDRs/Term Deposits amounting to Rs. 11,97,15,165/- (Rupees Eleven Crores Ninety Seven Lacs Fifteen Thousand One Hundred and Sixty Five only) without any mandate and fraudulently transferred the said closure proceeds in favour of her relatives and friends.

3. Learned counsel for the petitioner submits that the petitioner has been arrayed as an accused alongwith one Raj Kumar, who was working as Manager at the relevant time and the aforesaid transactions were duly approved by the Manager. It is further submitted that an incomplete chargesheet has been filed, since only transactions qua an amount of Rs. 8,39,000/- out of alleged amount of Rs. Eleven Crores have been investigated and as such petitioner is stated to be entitled to default bail. It is urged that the petitioner is a woman suffering from ailments and is unlikely to influence the witnesses, since the case is based upon documentary evidence. Parity is further claimed with co-accused Raj Kumar, who is stated to have been released on bail.

4. On the other hand, learned SPP for CBI vehemently opposes the application and submits that petitioner, who is a government servant, is involved in about 158 fraudulent transactions and misappropriation of public funds, which were made over a period of over two years. It is pointed out that each fraudulent transaction amounts to a separate offence and separate chargesheet is accordingly to be filed subject to clubbing of not more than three offences in accordance with law. It is further submitted out that the case of the petitioner is in no manner at parity with co-accused Raj Kumar, since the siphoned amount was not transferred by Raj Kumar in any account, but the same was diverted by the petitioner in various accounts held by her relatives and friends.

5. I have given considered thought to the contentions raised.

The contentions raised by petitioner in an application preferred on behalf of the petitioner under Section 439 read with Section 167(2) Cr.P.C. for default bail, have been considered by the learned Trial Court vide order dated 13.09.2023. It was therein observed that the chargesheet has been filed within a stipulated period of 90 days and also the issue regarding the delay in filing of sanction order was dealt with, relying upon ***Serious Fraud Investigation Office v. Rahul Modi & Ors.,*** 2022 SCC OnLine SC 153, ***Judgebir Singh @ Jasbir Singh Samra @ Jasbir & Ors. vs. National Investigation***, 2023 SCC OnLine SC 543 and ***Chitra Ramkrishna v. CBI through the IO,*** 2022 SCC OnLine Del 3124**.**

6. The benefit of proviso to sub-Section 2 of Section 167 of Cr.P.C. would be available to accused only if the investigation is not completed and chargesheet is not filed within the stipulated period. Admittedly, the chargesheet has been filed within stipulated period. The submission by learned SPP for CBI that since the petitioner is involved in about 158 fraudulent transactions committed over a period of two years and each transaction constitutes a separate offence, has to be kept in perspective. There may be unity of fraudulent purpose in respect of series of transactions or several different transactions but that by itself would not amount to single transaction as contended by learned counsel for petitioner. Each transaction of misappropriation/embezzlement of funds of respective account holder, is a complete act in itself. The *modus operandi* adopted by accused for each embezzlement may be same but it cannot be ignored that in respect of each fraudulent transaction, a complete process was again instituted and as such the entire series of fraudulent transactions cannot be considered as one. Further, since not more than three fraudulent transactions / offences can be clubbed, the chargesheet presented by CBI pending investigation of other transactions cannot be said to be incomplete.

The case of the petitioner also does not appear to be on parity with co-accused Raj Kumar since it has been pointed out by learned SPP for CBI that siphoned amount was not found to have been diverted by him in accounts of his relatives/ friends, though the same is disputed by learned counsel for the petitioner.

7. Considering the role of the petitioner, serious nature of allegations of misappropriation and cheating of public funds and evidence on record, no grounds for bail are made out. Application is accordingly dismissed.

ANOOP KUMAR MENDIRATTA, J.

APRIL 16, 2024/*akc*