2019 INSC 1263

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1711 OF 2019
(@ SPECIAL LEAVE PETITION (CRIMINAL) NO. 120 OF 2019)

Central Bureau of Investigation ...Appellant

Versus

Ramendu Chattopadhyay ...Respondent

WITH
CRIMINAL APPEAL NO. 1712 OF 2019
(@ SPECIAL LEAVE PETITION (CRIMINAL) NO. 462 OF 2019)

Republic of India (C.B.I.) ...Appellant

Versus

Ashis Chatterjee ...Respondent

J U D G M E N T

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MOHAN M. SHANTANAGOUDAR, J.

CRIMINAL APPEAL NO. OF 2019
(@ SPECIAL LEAVE PETITION (CRIMINAL) NO. 120 OF 2019)

Leave granted.

2. This appeal by special leave has been filed by the Central Bureau of Investigation ("the CBI") questioning the order dated 15.02.2018 granting bail to the Respondent passed by the High Court of Orissa at Cuttack in BLAPL No. 5748 of 2016.

3. In compliance with the order dated 09.05.2014 passed by this Court in Writ Petition (Civil) No. 401 of 2013 in ***Subrata Chattoraj* v. *Union of India***, the CBI registered an FIR vide Case No. RC-10(S)/2014-CBI/SCB/Kol, dated 04.06.2014, against one Tower Infotech Ltd. ("the accused company"), and several persons in connection with the affairs of the company, including the Respondent Ramendu Chattopadhyay, the Chief Managing Director of the accused company, treating Baliapal PS (Dist. Balasore, Orissa) Case No. 85/2013 dated 15.05.2013 as the base FIR. The case of the CBI revolves around the allegation that all the accused conspired amongst themselves to run collective investment schemes in the name of the accused company; and by inducing the public to invest under these schemes with the allure of high returns, collected funds amounting to Rs. 255,91,00,541/-, but did not repay the amount to the tune of Rs. 15,69,35,003/-, thereby cheating the investors of such amount. During the course of investigation, it was prima facie established that the Respondent, the accused company, and one Ashis

Chatterjee, a director in several companies under the Tower Group, were liable to be chargesheeted. Though material was also found against another director of the accused company, Ranjit Mullick, no further action was taken since he had expired by then. In pursuance of the above findings, a chargesheet was filed against the Respondent, and against Ashis Chatterjee and the accused company, under Section 120B read with Sections 420 and 409 of the Indian Penal Code ("the IPC"), and Sections 4 and 6 of the Prizes and Chit Money Circulation Scheme (Banning) Act, 1978. Further investigation under Section 173(8) of the Code of Criminal Procedure was kept open. The Respondent was arrested on 10.03.2016, before being released on bail by the impugned order. During the interregnum also, he was released on bail several times.

4. It is submitted by the CBI that the High Court granted bail to the Respondent without assigning any reason, and such grant of bail by the High Court is in question in this petition. Per contra, Shri Basanth, learned Senior Counsel for the Respondent argues in support of the impugned order by contending that the Respondent has not misused his liberty and has not come in the way of selling of company assets by the One-Man Committee constituted for the purpose. On the contrary, it is submitted that the Respondent is cooperating with the investigation

agencies and the One-Man Committee.

5. The records prima facie reveal that the Respondent was the founding director of the accused company. He was a key decision-making authority of the company, and used to sign certificates issued to the investors and other important documents. He was also an authorised signatory of all bank accounts of the company and used to conduct agents' meetings. As per the allegations, he used to mislead the agents by stating that the company had necessary permissions from the regulatory authorities to collect funds, and also used to project in the meetings that the returns paid by the accused company to its investors were higher than any other agency. As per the chargesheet, the accused company used to receive cash from the investors so that the Respondent, who used to receive cash directly from the company account frequently, without proper accounting, could easily siphon off the money.

6. The Respondent was granted interim bail by the High Court on 09.05.2017 in Misc. Case No. 738 of 2017 for three months, inter alia for the purpose of his co-operation with the authorities in liquidating the assets of the company for repaying the investors. The aforementioned period of interim bail was extended from time to time by the High Court,

i.e. on 13.09.2017 upto 25.10.2017, on 25.10.2017 upto 09.11.2017, and on 27.11.2017 upto 04.12.2017. Subsequently, he was released on bail by the impugned order, as mentioned supra. It has been brought to the notice of this Court by the CBI that during the said periods of availing bail, not a single property of the accused company could be sold, and the very purpose of his availing interim bail was frustrated, though a One-Man Committee headed by a retired Judge of the High Court, namely, Justice S.P. Talukdar, was appointed for this purpose. A letter dated 08.08.2019 written by Justice Talukdar, a copy of which was produced before this Court, reveals that no property of the Tower Group of companies has been sold by the One-Man Committee so far, and as a consequence, no amount has been deposited in the account of the One-Man Committee or returned to the investors.

7. It has also been brought to the notice of this Court that the Respondent, with the dishonest intention of deceiving and alluring investors, as well as agents and business developers, had got brochures of the Tower Group of companies published. In the aforesaid brochures, a letter was published in the name of Smt. Sheela Bhide, IAS, Chairman and Managing Director, India Trade Promotion Organisation. On the basis of this purported letter, it prima facie appears that the accused

tried to falsely impress upon the public that the accused company was doing lawful business and also gaining huge profits. Though Smt. Sheela Bhide was also named as an accused in the FIR, during investigation, she denied having issued this letter.

8. This Court is conscious of the need to view such economic offences having a deep-rooted conspiracy and involving a huge loss of investors' money seriously. Though further investigation is going on, as of now, the investigation discloses that the Respondent played a key role in the promotion of the chit fund scam described supra, thereby cheating a large number of innocent depositors and misappropriating their hard-earned money.

9. We are of the prima facie view that if the Respondent continues on bail, there is little chance of realising any amount by selling the properties of the Tower Group of companies, since he may use unlawful tactics to keep prospective buyers away. Moreover, it is relevant to note that the investigating agency has not yet assessed the exact total amount invested by the people of Orissa in the accused company, so as to find out the specific liability of the company in that regard. However, it is argued by both the Counsel that the amount may be about Rs. 350

Crores. Be that as it may, having regard to the material on record, and since a huge amount of money belonging to investors has been siphoned off, as well as for the aforesaid reasons, the High Court, in our considered opinion, should not have released the Respondent on bail.

11. Consequently, the impugned order granting interim bail to the Respondent stands set aside. His bail bonds are cancelled.

12. The appeal is allowed accordingly.

CRIMINAL APPEAL NO. OF 2019
(@ SPECIAL LEAVE PETITION (CRIMINAL) NO. 462 OF 2019)

Leave granted.

2. This appeal by special leave has been filed by the CBI questioning the order of the High Court of Orissa at Cuttack granting bail to the Respondent herein in BLAPL No. 1451 of 2017.

3. Since the facts emerging in this appeal are the same as in the criminal appeal arising out of S.L.P. (Crl.) No. 120 of 2019, they have not been referred to again for the sake of brevity.

4. It is submitted by the CBI as regards the role of the Respondent

that he was a director in various companies under the Tower Group, and was also a key decision-making authority therein. It is alleged that the accused company used to receive cash so that the directors, including the Respondent, could easily siphon off the money for their personal use, through their personal accounts. The Respondent was arrested on 10.03.2016 and was granted interim bail by the High Court vide order dated 17.08.2017 in Misc. Case No. 947 of 2017, for the purpose of settling disputes with the investors of M/s Tower Infotech Ltd. His interim bail was extended on 15.09.2017 upto 25.10.2017 as a last opportunity, but on 25.10.2017 his bail was further extended upto 09.11.2017. The Respondent was released on bail again by the impugned order. It is submitted that no company asset could be sold by the One-Man Committee consisting of Justice S.P. Talukdar with the assistance of the Respondent, similar to the situation in S.L.P. (Crl.) No. 120 of 2019. It has also been brought to our notice that the Respondent has not been attending meetings called by Justice Talukdar, to show that the Respondent has not been cooperating with the One-Man Committee constituted for liquidating the properties of the company to pay off the money to investors. Even in this case, we are of the view that if the Respondent is released on bail, he may obstruct efforts to liquidate the properties of the Tower Group.

5. Having regard to the material on record and since large amounts of money belonging to innocent investors have been siphoned off, as well as for the aforesaid reasons, the High Court, in our considered opinion, should not have released the Respondent on bail.

6. Consequently, the impugned order granting interim bail to the Respondent stands set aside. His bail bonds are cancelled.

7. The appeal is allowed accordingly.

.....J.
(MOHAN M. SHANTANAGOUDAR)

.....J.
(SANJIV KHANNA)

New Delhi;
November 19, 2019