

Raghubir Singh
Special Judge (PC Act) (CBI)-18,
Rouse Avenue District Courts,
New Delhi

IA No. 36/2023 & 37/2023
ECIR No: KLZO/41/2020
U/S : 3 & 4 of PMLA
Directorate of Enforcement v. Mohd. Enamul Haque

Order

1. Vide this order, the bail application u/s 439 Cr. P.C R/w Sec. 45 PMLA 2002, filed on behalf of accused/applicant **Anubrata Mondal** is being disposed of. In the application in hand it is prayed that the applicant be granted bail on such terms and conditions as may be deemed fit. In the detailed reply filed on behalf of the Prosecution, rejection of the bail is prayed for.

2. In the application in hand, various grounds for bail have been averred to the effect that accused/applicant is 63 years old and has been suffering from several age related and other ailments as mentioned in para no.4 of the application in hand. It is also averred that Sec. 45(1) of the Act of 2002 also carves out an exception for *sick* and *infirm* person. On the other hand, the reply makes averments to the effect that the alleged ailments are generic in nature and can be given treatment of; during the judicial custody as well. Both the sides have relied upon the case laws as mentioned in the application and reply respectively.

3. The Directorate of Enforcement had initiated the present case proceedings pursuant to the Scheduled Offence lodged by the CBI there in the State of West Bengal vide FIR No. RC 0102020A0019 dated 21.09.2020. As per the said FIR, the then BSF Commandant Sh. Satish Kumar along with Mohd. Enamul Haque , Mohd. Enarul S. K., Mohd. Gulam Mustafa and other unknown public servants and unknown private persons were allegedly involved in illegal activities relating to *smuggling of cattle* and had generated/acquired proceeds of crime. The ED started investigating the case for the alleged money laundering of the *proceeds of crime* so generated and filed the main Complaint/Charge Sheet as on 18.04.2022 qua 6 persons shown arrayed as accused. This Court through Ld. Predecessor took the cognizance thereof vide order dated 19.04.2022. Thereafter three Supplementary Complaints/charge sheets have been filed and the total number of accused persons till date is 23. The accused/applicant herein namely Sh. Anubrata Mondal is included in those 23 accused persons. He has also been running into judicial custody in connection with the CBI case there at Asansol, West Bengal. During the judicial custody in CBI case, the ED moved an application u/s 50 of the Act of 2002 before the concerned Spl. Judge, CBI Court there at Asansol West Bengal and the same having been allowed, he was interrogated in Jail and was formally arrested by the ED in connection with the present case proceedings as on 17.11.2022. Vide order dated 19.12.2022, this Court directed the Jail Superintendent, Asansol

Correctional Home, Asansol Paschimi Bardhman, West Bengal to produce the accused Anubrata Mondal before this Court forthwith; on receiving the copy of the said order. In compliance of the said order, the accused/applicant was produced before this Court/Duty Judge as on 08.03.2023. His statutory bail application stood disposed of as dismissed vide detailed order dated 24.01.2023 and he has been running into JC in connection with the present case proceedings as well as in connection with the CBI case registered at Asansol West Bengal.

4. As per Section 45 of the Act of 2002, the accused/applicant is required to fulfill the '*twin conditions*' stipulated therein for being entitled to the relief of bail. In the given facts and circumstances, the case of the applicant herein falls within the trap of the twin conditions and hence on merits no case/ground for regular bail is made out. However, the *proviso clause* thereof gives discretion to the Court to consider an applicant (who is under the age of 16 years, or is a women or is a sick or infirm person or the allegedly laundered sum is less than 1 Crore rupees); on a different footing so as to relax the *twin conditions* thereof. The application is to be adjudicated upon and looked into in this context.

5. While hearing arguments on the bail application on 27.07.2023, a report was called from the Jail Authorities about the general health condition of the accused/applicant Anubrata

Mondal. The same was furnished as on 03.08.2023. The report in its conclusion shows that '*at present, the inmate patient (i.e. Sh. Anubrata Mondal) is hemodynamically stable and he is presently in his ward*'. Not only in the contents of the application in hand, but also in the detailed report showing the medical status of the applicant/accused, it becomes clear that the accused has been suffering from a number of *life style diseases*. However, nothing is there to show that there is any sort of eminent medical exigency so as to consider it a ground of bail within the *proviso clause* of Section 45 of the Act of 2002. The detailed report furnished by the Jail Authorities itself shows that accused is well taken care of for his ailments and frequent check ups/prescriptions are being conducted in a routine manner. The accused/applicant is one of the *main accused*. His role is deciphered in minute details in the Complaint/Supplementary Complaints which allegedly is of *serious economic consequences* involving *several Crore rupees*. Thus, no case either within the meaning of twin conditions or the proviso clause appended to Section 45 PMLA 2002 is made out and the bail application in hand deserves dismissal. Ordered accordingly.

Announced in open Court
On 07th August 2023

(Raghubir Singh)
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