M.L Case No 10 of 2024
CNR-WBCS01-001002-2024
Present: Shri Sukumar Ray
Chief Judge, City Sessions Court, Calcutta
J.O. CODE NO.WB00590.

Order No 16 dated 20.05.2025

Today is fixed for production of the accused persons namely (A-3) namely Basudeb Bagchi and (A-4) Avik Bagchi and further hearing of the bail applications dated 11.04.2025 and passing order in respect of the bail petitions of these accused persons.

Accused persons namely (A-3) namely Basudeb Bagchi and (A-4) Avik Bagchi are produced before this Court from J.C through virtual mode.

Ld. Advocate for the accused persons as well as Ld. Special Public Prosecutor are present.

Now the bail petitions in respect of both the accused persons **Basudeb Bagchi and Avik Bagchi** along with written objection thereto by the Enforcement Directorate[hereinafter referred to as ED] are taken up for hearing together.

Ld. Advocate for the accused/petitioners **Basudeb Bagchi** and **Avik Bagchi** pray for bail on the ground that accused/petitioners are not named in the FIR or in the ECIR and that they were arrested in connection with the instant case on 26.11.2024 and since then have been suffering incarceration for period of more than about four months.

Ld. Advocate further submitted that the present ECIR has been lodged after a lapse of ten years from the date on which the CBI had initiated its FIR and after investigation the charge sheet has already been submitted by the CBI under section 4, 5, 6 of the Prize Chits and Money Circulation (Banning) Act and 120B/420/34 of the Indian Penal Code and accused/petitioners were enlarged on bail in said CBI case but ED had tagged accused/petitioners in this case only to harass them. It has been reiterated that accused/petitioners are absolutely innocent and are in no way connected with the alleged offence and their arrest and continued incarceration is nothing but a product of utmost malice and tantamounts to unnecessary detention.

Ld. Advocate for the accused/petitioners submits that there is no proceeds of crime and prosecution has failed to submit any document to show that the money collected by the accused/petitioners were indeed used by them for acquiring properties in their names. He has also submitted that the accused/petitioners are in custody for a considerable length of time.

Ld. Advocate for the accused/petitioners has also raised cavil that the instant ECIR and the consequential complaint dated 24.01.2025 are not maintainable in view of Article 20(2) of the Constitution of India. He has also drawn attention of the Court to the fact that during the custody of the accused/petitioners in another case i.e. SFIO the Enforcement Directorate never felt it necessary to interrogate the petitioners in judicial custody and after a lapse of 10 years of the predicate offence this case has been initiated.

Ld. Advocate for the accused/petitioners reinforcing the bail prayer further submitted that even before initiation of any cases, accused/Petitioners had proceeded to return back the subscription money to the concerned subscribers and their son and father respectively has played an active role in repaying the money to the subscribers by cooperating with the One Man Committee.

Ld. Special Public Prosecutor of Enforcement Directorate raises vehement objection to the bail prayer of these accused/petitioners on the ground that the investigation revealed that the accused/petitioners through their companies have collected deposits to the tune of Rs. 2862.84 crores and out of the said collection Rs. 1140.26 crores including interest had been repaid and sum of Rs. 1906.22 crores was still remaining outstanding. He further submits that investigation had clearly revealed that these accused/petitioners had diverted and misappropriated deposits made by the public for their personal gains.

Ld. Special Public Prosecutor of Enforcement Directorate further submits that there is sufficient prima facie materials in the case record and the complaint indicating the direct and active involvement of these accused/petitioners in the alleged offence of siphoning off of public money which was illegally deposited in their bank accounts and these accused/petitioners were directly involved in the processes and activities connected with the “Proceeds of Crime” generated as a result of the criminal activity related to the Scheduled Offence i.e. acquisition, possession, concealment, use and projecting or claiming as untainted money/ property as defined in Section 3 of the Prevention of Money Laundering Act, 2002.

Ld. Special Public Prosecutor of Enforcement Directorate prays for rejection of bail prayer of these accused/petitioners as money to the tune of several crores was involved in this case and accused/Petitioners were very much involved in the alleged scheduled offence under the Prevention of Money Laundering Act, 2002.

Ld. Advocate appearing on behalf of the accused/petitioners has relied upon the following judgements :

1) State of Rajasthan vs Surendra Singh Rathore 2025 SCC OnLine SC 358

2) T.T. Antony vs State of Kerala (2001) 6 SCC 181

On careful perusal of the Judgements referred above, it appears to me that there is no need of second FIR on the self same incident.

Heard both sides.

On careful perusal of the record it appears that this case is related to investment made in West Bengal and other parts of India. The initiation of case after a lapse of certain time does not ipso facto establish that such case is devoid of merits. Thus, the principal laid down by the Hon’ble Apex Court in regard to second FIR is not applicable in the present fact situation.

Meticulous perusal of the case diary reveals that accused/petitioners Basudev Bagchi and Avik Bagchi through their companies have collected deposits to the tune of Rs. 2862.84 crores from different investors and out of such collection Rs. 1140.26 crores was repaid and there is still an outstanding amount of Rs. 1906.22 crores yet to be refunded to the depositors. Materials on record prima facie reveal that accused/petitioners Basudev Bagchi and Avik Bagchi through their companies diverted deposits collected from public for their personal gain and used profits generated from various clubs and hotels and siphoned off the same for their personal benefit by opening and operating new proprietorship firms in different names.

Money laundering is an aggravated form of crime, that has serious transnational consequences and should not be treated like ordinary offences. It is no more res integra that the offence of money laundering is an independent offence regarding the process or activity connected with the proceeds of crime, which had been derived or obtained as a result of criminal activity relating to or in relation to a schedule offence. Hence, involvement in any of such offence or activity connected with the proceeds of crime would constitute offence of money laundering. In this regard, I borrow my wisdom from the observation of the Hon'ble Apex Court in **Union of India Vs Kanhaiya Prasad AIR 2025 SC 1028**.

Materials on record prima facie suggests that the accused/petitioners with dishonest intention and ill motive have siphoned off the money collected from unsuspecting and innocent investors on a promise of getting the money back to the investors after maturity period.

It further appears to me the accused/petitioners have failed to make legitimate payment in violation of trust which they were required to discharge.

In **Y.S. Jagan Mohan Reddy v. CBI (2013) 7 SCC 439** the Hon'ble Apex Court while dealing with the bail applications for offences under the Prevention of Corruption Act discussed in length the concept of an economic offence and its ramifications on the society at large and observed unequivocally that "Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail". The Hon'ble Court further observed:

"While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations."

Going by the nature and gravity of alleged offences and materials on record, apprehension of tampering of evidence and intimidation/influencing of witnesses in event of the accused/petitioners being liberated on bail does not appear to be misplaced.

Considering the facts and circumstances of the case and prima facie extent of complicity of the accused/petitioners in the alleged offence/s in question, I do not find any just cause to allow the prayers for bail of the accused/petitioners.

Bail prayers of the accused/petitioners accordingly stand **rejected**.

The accused persons namely (A-3) namely Basudeb Bagchi and (A-4) Avik Bagchi are remanded to J.C till **03.06.2025**.

Fixing **03.06.2025** for production of the accused persons and further order.

To date i.e. on 20.06.2025 for appearance of the accused person.

Let a copy of this order be given to the I.O through Ld. Special Public Prosecutor of Enforcement Directorate.

Dictated & corrected by me

Sd/-

Chief Judge,
City Sessions Court, Calcutta.

Sd/-

Chief Judge,
City Sessions Court, Calcutta.