

GR-648/2022
CIS 431/2022

Order dt. 25.09.2023.

Accused persons namely Gourav Jain, Sachin Toshniwal, Prasenjit Hari, Raneet Acharya and Apu Kumar Shaw are produced from J/C.

Ld. Special P.P files hazira.

Bail petition is filed on behalf of accused Ranit Acharaya. By filing the bail petition Ld. Advocate prays for bail in terms of Sec. 437(6) Cr.P.C. Ld. Advocate for the accused submits that trial commenced on 21.07.23 but after the lapse of more than two months trial has yet not been completed which itself said the ground in favour of this accused who released on bail. Producing the order dt.22.09.23 Hon'ble Apex Court in Special Leave to Appeal (Crl.) no. 11895 of 2023. Ld. Advocate for the said accused submits that by virtue of the right as envisaged in Sec. 437(6) Cr.P.C Supreme Court permitted this bail petition to withdraw the said S.L.P and to seek remedy in accordance with law.

Drawing my attention to the C.S Ld. Advocate for the petitioner further submits that in another S.L.P the proceeding of instant case has been stayed. Therefore, it would not be possible to examine all the 72 C.S witnesses even within next two months. Hence, the bail petition.

Heard Ld. Special P.P who submits that initially charge could not be framed due to several technicalities as pointed out on behalf of the accused person. However, overcoming after all technicalities trial commenced on 21.07.23 and on the very date PW-1 was examined. Next date was fixed on 02.08.23 for further examination of PW-1. On 02.08.23 no step was taken due to resolution of Local Bar and the next date was fixed for 16.08.23 for production and further evidence. Subsequently, on 04.08.23 by filing an intimation this Court was informed that the initial proceeding has been stayed by Hon'ble Apex Court in his Special Leave Application no. 8696/23. It has yet been

stayed. Therefore, evidence cannot be concluded. Ld. Special P.P produced the observation of Hon'ble High Court at Calcutta in C.R.M(D) 3392/23 wherein observation has been made that proceeding have been stayed by Hon'ble Apex Court.

Perused the C.R. Considered.

Section 437(6) Cr.P.C states as follows :

if, in any case triable by a Magistrate, the trial of a person accused of any non-bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for reasons to be recorded in writing, the Magistrate otherwise directs.

Coming to the present case it appears that by using the Microsoft Corporation India Pvt Ltd this accd person dupped the innocent people globally in CRM(DB) 3392 of 2023 Hon'ble High Court inter alia observed that trial has already been commenced but has been stayed at the behest of the petitioner. Petitioner may indulge in similar fraud, if released on bail. On the other hand, it is apparent from the record that trial could not be continued as the proceeding has been stayed by Hon'ble Apex Court. Section. 437(6) Cr.P.C. Now, considering the attending circumstances and under the aforesaid premises I am of the view that bail petition should not be allowed by virtue of Sec. 437(6) Cr.P.C. Accordingly the same is rejected. Accused persons are remanded to J/C.

Issue summons for CSW-1.

Fix 09.10.2023 for production of the accused person and evidence.

Dictated by,

ACJM in-Charge, Bidhannagar