

24.07.2023

Item No.136
Ct.No.34
dc./gsd.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 2653 of 2023

**Abhishek Banerjee
versus
The Directorate of Enforcement (ED)**

In Re: An Application under Section 482 of the Code of Criminal Procedure, 1973 filed in connection with ECIR/KLZO-II/19/2022 dated 24.06.2022 under Sections 3 and 4 of the Prevention of Money Laundering Act, 2002.

Dr. Abhishek Manu Singhvi, Sr. Adv.,
Mr. Kishore Datta, Sr. Adv.,
Mr. Sanjay Basu, Adv.,
Mr. Soumen Mohanty, Adv.,
Mr. Ayan Poddar, Adv.,
Mr. Piyush Kumar Ray, Adv.,
Mr. Agnish Basu, Adv.,
Ms. Riddhi Jain, Adv. ... For the Petitioner.

Mr. S. V. Raju, Ld. A.S.G.,
Mr. Phiroze Edulji, Adv.,
Mr. Zoheb Hossain,
Mr. Samrat Goswami, Adv. ... For the Enforcement Directorate.

Mr. Bikash Ranjan Bhattacharya, Sr. Adv.,
Mr. Firdous Samim, Adv.,
Ms. Gopa Biswas, Adv.,
Ms. Payel Shome, Adv.,
Ms. Samprii Saha, Adv. ... For Soumen Nandy (Writ Petitioner).

Mr. Raju, learned Additional Solicitor General appearing for the E.D. has taken a preliminary objection for this Court to hear out the matter. According to the learned senior advocate, a reference has been drawn to the Hon'ble Supreme Court's order dated 28.04.2023 with emphasis on Paragraph 3 of the said order, which is as follows:

"3. Having considered the transcript, we direct that the Acting Chief Justice of the High Court at Calcutta shall reassign the pending proceedings in the case to some other Judge of the Calcutta High Court. The Judge to whom the proceedings are reassigned by the Acting Chief Justice would

be at liberty to take up all applications which may be moved in that regard.”

Learned ASG has also referred to the Assignment Order dated 1st May, 2023 passed by the Hon’ble the Chief Justice, Calcutta High Court, wherein it has been quoted as follows:

“ The Writ Petitions, all application filed in the writ petitions and any further application/s that may be filed including Review Application/s are assigned to Hon’ble Justice Amrita Sinha.”

Learned ASG also draws the attention of the Court to the order passed on 14.07.2023 by the Hon’ble Justice Amrita Sinha in WPA 9979 of 2022, wherein it has been stated as follows :

“On the adjourned date the learned advocates appearing for the CBI and the ED shall give the details of the Investigating Officers who are investigating the municipal scam case.”

This Court enquired from the learned ASG whether a bail application in connection with the said case should be taken up by the same Hon’ble Judge who is in seisin of WPA 9979 of 2022. To this, it was answered by the learned Senior Advocate, that the bail applications, in his humble submissions, should be taken up by the same Hon’ble Judge who is in seisin of WPA 9979 of 2022.

Dr. Singhvi, learned senior advocate, appearing for the petitioner, vehemently opposes such contention advanced on behalf of the E.D. and submits that the application was preferred before a designated Court regularly exercising jurisdiction under Section 482 of the Code of Criminal Procedure.

The attention of this Court has drawn to Paragraph 9 of order passed by the Hon'ble Supreme Court in a Special Leave to Appeal being (C) No(s). 11588-11589/2023, which is set out as follows:

“We are inclined not to interfere with the impugned order since the consequence of doing so would be to stifle the investigation at the incipient stage. However, the petitioner is at liberty to pursue all remedies which are available in law, including under Section 482 of the Code of Criminal Procedure 1973. In the event that the petitioner takes recourse to such remedies as are available in law, the observations which are contained in the order dated 13 April 2023 or in the impugned order dated 28 May 2023 shall not stand in the way of the competent court dealing with such an application on its own merits.”

Dr. Singhvi reiterates that the Hon'ble Supreme Court granted liberty to pursue all remedies which are available in law including those available under Section 482 of the Code of Criminal Procedure and the petitioner has availed of such remedy before the Regular Bench of Calcutta High Court having determination to deal with the same.

It has also been submitted by the learned Senior Advocate that such objections were not earlier taken by the ED when the bail applications of Manik Bhattacharya and Sujay Krishna Bhadra were moved on 26th June, 2023 and 20th July, 2023 respectively, according to him with the petitioner's name changing the stand of the ED is also different.

Dr. Singhvi has also submitted that the stand has additionally been taken by the E.D. as the petitioner has some medical emergency.

Dr. Singhvi on behalf of the petitioner prays for extension of the interim order, which was earlier granted on 20.07.2023 and the same is opposed by the learned Additional Solicitor General and Mr. Bikash Ranjan Bhattacharya, learned senior advocate appearing on behalf of Soumen Nandy, who is treated to be added as a party.

In view of the stand taken by the E.D., I direct the records of the case be placed before the Hon'ble the Chief Justice for deciding on the issue as to whether this Court has determination to take up the present revisional application.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

(Tirthankar Ghosh, J.)