

09.08.2019
SI No.48
AP

CRM 7064 of 2019

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on **02.08.2019** in connection with **Matelli** Police Station Case No. **192 of 2016** dated **23rd November, 2016** under Sections **379/411/413/414/467/468/ 471** of the Indian Penal Code.

And

In Re: **Nirbhoy Chandra Choudhury**

... .. Petitioner.

Mr. Kalyan Bandopadhyay, Senior Advocate,
Mr. Ram Agarwal,
Ms. Nibedita Pal,
Mr. Ramesh Dhara,
Mr. Anando Gopal Mukherjee

... for the petitioner.

Mr. Madhu Sudan Sur, Ld. A.P.P.,
Mr. Manoranjan Mahata

... .. for the State.

It is submitted on behalf of the petitioner that the substantial portion of the investigation is over and the investigating agency illegally resorted to Section 41(A) of the Criminal Procedure Code.

Learned lawyer for the State opposes the prayer for anticipatory bail and submits that the petitioner has not cooperated with the investigation.

We have considered the materials on record and we find that the vehicle bearing 121 quintal and 25 kg of wheat was seized in 2016. Investigation has continued for three years and lately the investigating agency for reasons best known to them has issued a notice under Section 41(A) of the Criminal Procedure Code in a case involving offences punishable up to life imprisonment. Investigating agency requires to apply its mind to the nature of allegations before

resorting to issuance of notice under Section 41(A) of the Criminal Procedure Code.

Having considered the aforesaid facts particularly in view of the fact that incriminating articles have already been seized and has been returned to its owner on execution of bond, we are of the opinion that custodial interrogation of the petitioner is not be necessary and he may be granted anticipatory bail although he requires to cooperate with the investigation in accordance with law.

Accordingly, we direct that in the event of arrest, the petitioner be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, to the satisfaction of the arresting officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioner shall meet the investigating officer once in a week until further orders and on condition that the petitioner shall appear before the court below and pray for regular bail within a period of four weeks from date.

The application for anticipatory bail is, thus, disposed of.

(Manojit Mandal, J.)

(Joymalya Bagchi, J.)