

16.10.2020

Item No. 32

k.b./b.r.

DO

C.R.M. 5657 of 2020 (via video conferencing)
with
IA No. 1 of 2020 (Old No. CRAN 4026 of 2020)

In Re:- An application for bail under Section 438 of the Code of Criminal Procedure in connection with Sonarpur P.S. Case No. 534 of 2020 dated 06.07.2020 under Sections 420/468/471/472/473/474/120B) of the Indian Penal Code, 1860.

And

In Re : Balivada Shivaprasad & Anr. petitioners

Ms. Juin Dutta Chakraborty
.....for the petitioners.

Mr. Rana Mukherjee
Ms. Sujata Das
....for the State

Mr. Gauranga Kumar Das
Mr. Kalyan Chatterjee
..... for the de facto complainant.

Petitioners undertake to affirm and stamp the petition/application as per Rules within 48 hours of resumption of normal functioning of the court. Subject to such undertaking, the application is taken up for hearing through video conferencing.

Party/parties is/are represented in the order of their name/names as printed above in the cause title.

The facts of this case are truly chequered. The basic fact is that the petitioners owe the *de facto* complainant a total sum of Rs.9,50,000/- (Rupees Nine lacs fifty thousand only). The petitioners first came up before the Hon'ble Court by way of this application praying for anticipatory bail which was dealt with by

an order dated 19th August, 2020, *inter alia*, recording the undertaking of the petitioners to refund the alleged defalcated amount of Rs.9,50,000/- to the *de facto* complainant.

This application was once against heard on the basis of the undertaking as directed to be furnished by the petitioners. Thereafter on the 30th September, 2020 the Hon'ble Co-ordinate Bench recorded the default on the part of the petitioners to pay the sum of Rs.9,50,000/- and observed that it appears that the petitioners are indulging in delaying the disposal of the application and failing to show *bona fides* in complying with the direction passed by this Court.

The Hon'ble Co-ordinate Bench extended the time for compliance by the petitioners till the 5th of October, 2020. It further transpires that by an order dated 8th October, 2020, the petitioners paid an additional sum of Rs.50,000/- to the *de facto* complainant and, in terms of an Affidavit filed in Court today, it is, *inter alia*, an admitted position that a total sum of Rs.7,70,000/- is still outstanding.

This Court does not intend to keep this anticipatory bail application pending. The petitioners are directed to pay a total amount of Rs.7,70,000/- within two weeks after the reopening of ensuing long Puja Vacation by a Demand Draft/Pay Order in favour of the *de facto* complainant and report such payment to the Investigating Officer.

In the event such payment is not made within two weeks of reopening of the Court after the long Puja Vacation of

2020, the interim protection granted to the petitioner shall stand automatically cancelled.

The application for anticipatory bail being **CRM 5657 of 2020** along with **IA CRAN 1 of 2020 (Old CRAN 4026 of 2020)** are **disposed of**.

All parties shall act in terms of the copy of the order downloaded from the official website of this Court.

Urgent xerox certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Subhasis Dasgupta, J.)

(Subrata Talukdar, J.)