18.09.2020
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CRM No. 6303 of 2020

(Via video conference)

In Re:- An application for bail under section 438 of the Code of Criminal Procedure in connection with Rampurhat Police Station Case No. 276/20 dated 13.08.2020 registered for investigation into offences punishable under Sections 420/406/34 of the Indian Penal Code.

And

In the matter of : Rohan Dutta

… Petitioner

Mr. Sandipan Ganguly
Mr. Dipanjan Dutta
Ms. Soni Ojha
Ms. Aishwaarya Chatterjee

.. for the petitioner

Mr. Sudip Ghosh
Mr. Apurpa Kr. Datta

..for the State

The petitioner undertakes to affirm and stamp the petition as per the Rules within 48 hours of resumption of normal functioning of the court. The petition is taken up through video conference on the basis of such undertaking.

This is an application for anticipatory bail in connection with a palpably fraudulent transaction that took place and for which the bank and the petitioner seek to avoid their liability together.

The facts are not much complicated. The applicant for a credit card of the HDFC Bank may have requested the HDFC Bank in which he held an account to expedite the process. So much appears to be admitted by the petitioner. The branch manager of the bank called the petitioner and asked him to expedite the process. According to the petitioner, the petitioner called the concerned applicant and informed the applicant that the applicant would get a verification call. It appears that the applicant got the verification call but the applicant was required to download an application and furnish details of the applicant's bank account and the deposits that the applicant held.

The petitioner says that for the purpose of applying for a credit card it is not the bank's policy to ask for any app to be downloaded or for the particulars of deposit to be furnished. The petitioner claims that the applicant was a victim of a fraudulent transaction and the applicant was induced to furnish numbers that the applicant ought not to have communicated on the phone. The petitioner says that the HDFC bank and the petitioner had nothing to do with the said fraudulent phone-call that the applicant received and the petitioner cannot now be made the scapegoat as a result of the complaint being lodged.

To boot, a nuanced reference is made to the status of the applicant who is a judicial officer; the insinuation being that it is because the complainant is a judicial officer that the petitioner has been proceeded against.

It is too much of a coincidence that the petitioner made a phone-call to the applicant and informed the applicant that a verification call would be made to the applicant and the fraudster quietly heard the same and pretended to be the maker of the verification call to dupe the applicant. The facts as they pan out do not rule out the possible role of this petitioner in the said fraudulent transaction and, therefore, his custodial interrogation cannot be excused.

The investigating agency is encouraged to take the petitioner into custody and probe the entire role of the bank and its officials and as to how there could be an app in existence carrying the bank's name without the bank being aware of the same.

The prayer for anticipatory bail is refused.

CRM 6303 of 2020 is disposed of.

(Sanjib Banerjee, J.)

(Aniruddha Roy, J.)