

20.11.2020.
Pb/ab
SL. 01

C.R.M. 9054 of 2020

Re : Application under Section 439 of the Code of Criminal Procedure in connection with English Bazar P.S. Case No. 553 of 2020 dated 29.06.2020 under Sections 420/406 of the Indian Penal Code.

In Re :- Chandan Roy ... Petitioner.

Mr. Subir Sanyal,
Mr. V. Bhattacharyya,
Mr. A. Bhattacharyya,
Mr. Sagrik Roy Chowdhury. ... For the Petitioner.

Mr. Swapan Banerjee,
Mr. Suman De. ... For the State.

The petitioner has challenged the order dated 12.10.2020 passed by the learned Chief Judicial Magistrate, Malda in G.R. Case No.2718 of 2020 in connection with English Bazar P.S. Case No.553 of 2020 dated 29.6.2020 under Sections 420/406 of the IPC whereby the learned Chief Judicial Magistrate rejected the prayer for bail of the petitioner.

It is submitted on behalf of the petitioner that the petitioner is in jail custody for the last 40 days. It is further submitted that he had lodged a complaint against the opposite party Chandan Roy on 7.2.2020 before the Inspector In-charge, English Bazar, Malda with a request to take immediate action about the crime. It would appear from the record that the petitioner filed the writ petition being W.P. 5908(W) of 2020 seeking issuance of mandamus directing the Special Branch, C.I.D., West Bengal to take up and look into and cause investigation as allegations leveled against the private respondent and to initiate appropriate steps in accordance with law

with further direction on the respondent nos.4 and 5 to take appropriate, immediate and expeditious steps to ensure the protection of the petitioner inter alia on the ground noted in the petition and to take all necessary steps against the respondent nos.6 to 9 as well as the errant officer of English Bazar P.S. for infringement of fundamental rights. The writ court directed the Officer-in-Charge to submit a report and pursuant thereto the report was submitted on 30.7.2020 before the writ court. It is reflected from the report that the petitioner no.1 and the respondent no.6 of the writ petition had started partnership business under the name and style of "Lime Lite Food Corner" having its registered office at Binoy Sarkar Road, Fulbari, P.S. English Bazar, Malda on the basis of registered deed of partnership being No.259 dated 29.11.2019.

It is alleged in the writ petition that the petitioner no.1 had invested Rs.4 lakhs towards the partnership firm and the petitioner no.2 invested Rs.1,59,000/- for the purpose of the said business. The petitioner no.1 inquired the respondent no.6 and wanted to have a look into the business but initially he avoided the same on different pretext. The said partnership firm has been dissolved by a deed of dissolution of partnership dated 10.1.2020. The Inspector-in-Charge has expressed his inability in looking into the complaint made by the petitioner no.1 giving a plea that he has newly been posted at English Bazar during the lockdown situation.

It is stated that in order to mount further pressure on the petitioner and his wife, Raja Dey engaged a number of rowdy elements and one of them namely Sri Subhradeep Das the defacto

complainant herein who was projected as an extremely influential political leader of Malda who started pressurizing the petitioner and his wife Smt. Asha Das to pay him a sum of Rs.2 lakh as reward for settling a business related disputes between the petitioner's wife and the said Raja Dey. The said Subhradeep started threatening the petitioner no.1 through whatsapp and demanded Rs.2 lakhs.

Learned Advocate for the State adverted to document placed at page 8, 9 and 10 and so also the statement of the witness at page 11 and the statement of the present petitioner accused at page 58 to contend that the petitioner is a high tier trickster who cheated a political leader of Malda.

The aforesaid material reflects a serious concern in the sense that the petitioner has impersonated one Ranjan Bose, Assistant Bureau, Chief Enforcement Directorate, but, at the same time, on behalf of the petitioner it is submitted that these are the materials which are required to be viewed in the evidence in terms of the Information Technology Act and Law pertaining to Electronic Evidence which mandates that the document must be under certification. It is also noted that the investigating agency does not appear to be competent really to unearth the truth because no attempt has been made on behalf of the investigating officer in the first-go to approach the Enforcement Directorate to ascertain the facts at page 8, 9 and 10. Therefore, the Superintendent of Police, Malda is directed to personally look into the matter and to report within 15 days from the date of communication of the order to the learned Chief Judicial Magistrate, Malda.

However, in the background of the facts as discussed and considering the political ire between the parties this court is pleased to grant interim bail to the petitioner for a period of three weeks upon furnishing a bond of Rs.10,000/- with two sureties of like amount one of whom must be the local subject to the satisfaction of the learned Chief Judicial Magistrate, Malda on condition to meet Investigating Officer once in a week.

The S.P. Malda is directed to inquire about the factual aspect of the documents placed at page 8, 9 and 10 from Enforcement Directorate and if it is found that the petitioner has involved himself in impersonating the E.D. Official, then the interim bail so granted this day shall stand vacated. But, the S.P., Malda will personally enquire about those documents from the Director of E.D., Government of India.

Let a copy of this order be communicated to the S.P., Malda and the Director of Enforcement Department, Government of India through the Registrar (Administration).

Learned C.J.M., Malda would be at liberty to take appropriate action on the basis of the report submitted before him and if the report is favouring the petitioner, the petitioner be allowed to continue on bail.

Thus, the application being CRM 9054 of 2020 is disposed of.

(Shivakant Prasad, J.)