

27.01.2021
Item No.198
Ct.No.28
s.d.
rejected

C.R.M. 46 of 2021
(Via Video Conference)

In Re : An Application for anticipatory bail under Section 438
of the Code of Criminal Procedure.

And

In the matter of : Amlan Biswas ... Petitioner.

Mr. Abhijit Ganguly
Mr. Saryati Dutta
... For the Petitioner.

Mr. Saswata Gopal Mukherji, PP
Mr. Sudip Ghosh
Mr. Bitasok Banerjee
... For the State.

Mr. Amitava Karmakar
Mr. Nilendu Bhattacharya
Mr. Kapil Guha
Mr. Suman Dey
...for the de facto complainant.

Apprehending arrest in connection with Sarsuna
Police Station Case No. 101 of 2020 dated 01-10-2020 under
Sections 120B/420/409/406 of the Indian Penal Code, the
present application has been filed.

Pursuant to the order dated 18th January, 2021, the
learned Public Prosecutor, High Court, Calcutta has
submitted a report of the Investigating Officer of the case.

Let the report submitted by the SI of Sarsuna Police Station through the learned Public Prosecutor, High Court, Calcutta be kept with the record.

Mr. Ganguly, learned advocate appearing on behalf of the petitioner in CRM 46 of 2021 submits that another accused who was also Chief Operating Officer and similarly placed have been granted the privilege of anticipatory bail.

He further submits that having regard to the nature of allegations, the same makes out a civil dispute for recovery of money and no case of cheating or criminal breach of trust is made out.

The learned advocate for the petitioner further relies upon a judgment of the Hon'ble Apex Court in the matter of *Prabhakar Tewari v. State of U. P. and Anr.*, reported in 2020 SCC OnLine SC 75 and draws the attention of this Court to paragraph 8 of the said judgment.

Mr. Mukherji, learned Public Prosecutor appearing for the State submits that the petitioner is involved in two other cases relating to Airport Police Station and Park Street Police Station.

He further submits that the company is not notified with the Securities and Exchange Board of India and the amount which has been defalcated is Rs.1,84,87,848/-.

We have taken into account the submissions of both the parties and also the judgment of the Hon'ble Apex Court which relates to a bail application.

Having regard to the fact that the present application relates to Section 438 of the Code of Criminal Procedure, we are of the opinion that custodial interrogation of the petitioner may be warranted in the facts and circumstances of the case.

With the aforesaid observations, the prayer for anticipatory bail of the petitioner is rejected.

The application being CRM 46 of 2021 is, thus, disposed of.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)