

23.09.2021

Court No.28
Item No.192
(allowed)

Saswata

CRM 3018 of 2021

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with Minakhan Police Station Case No. 38 of 2021 dated 05.02.2021 under Sections 341/323/325/308/379/506/34 of the Indian Penal Code;

And

In the matter of : **Kunal Mahato**

...Petitioner

Mr. Sumanta Chakraborty

...For the Petitioner

Mr. P.K.Dutta, APP

Mr. Santanu Deb Roy

...For the State.

Apprehending arrest in connection with Minakhan Police Station Case No. 38 of 2021 under Sections 341/323/325/308/379/506/34 of the Indian Penal Code, the petitioner has filed the instant application for anticipatory bail under Section 438 of the Code of Criminal Procedure.

The scuffle took place over the dispute relating to pisciculture in a big pond to which the complainant as well as the petitioner are the co-sharers. The dispute pertains to embezzlement of the income, derived from the said pisciculture and one of the complaints appears to have been filed prior to such unfortunate incident. The case has been registered as the *de facto* complainant suffered an injury. The medical report, enclosed in the case diary reveals the injury to be moderate in nature and not grievous.

In course of hearing, it appears that three co accused have been enlarged on bail by the Trial Court. Though the learned Advocate for the *de facto* complainant says that the petitioner is the principal accused, but from the statement of the said injured person recorded under Section 161 of the Code of Criminal Procedure, the allegation is omnibus in nature and attributed to all the co accused including the three, who have already been enlarged on bail.

Since, the other co accused have already been enlarged on bail, we do

not find any justification in extending the benefit of Section 438 to the petitioner.

The prayer for anticipatory bail of the petitioner is **allowed**.

Accordingly, we direct that in the event of arrest, the petitioner shall be released on bail upon furnishing a bond of ₹10,000/- (Rupees Ten Thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer and the petitioner shall meet the Investigating Officer once in a week and shall cooperate with the investigation process and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

In default, it is open to the arresting officer to apprehend the petitioner, immediately without any further reference to this Court.

The application for anticipatory bail being CRM 3018 of 2021 is, thus, ***disposed of***.

(Harish Tandon, J.)

(Bibek Chaudhuri, J.)