

28.09.2021

Item no.2.

Court No.32.

AB

(Allowed)

(Via Video Conference)

CRM No. 5300 of 2021

In Re: An Application for Anticipatory Bail under Section 438 of the Code of Criminal Procedure filed on 10.08.2021 in connection with Bhowanipore Police Station Case No.147 of 2021 Dated 30.07.2021 under Sections 406/409/420/467/468/471 120B of the Indian Penal Code

And

In the matter of : Bankey Lal Choudhary & Others

.....Petitioners.

Mr. P. Chidambaram, Sr. Adv,
Mr. Shekhar Basu, Sr. Adv,
Mr. Milan Mukherjee, Sr. Adv,
Mr. Kalyan Bandyopadhyay, Sr. Adv,
Mr. Jay Saha, Sr. Adv,
Mr. S. S. Ali,
Mr. A. Singh,
Mr. P. Edulji,
Mr. S. Mukherjee,
Mr. S. Mitra,
Mr. S. Sarawgi,
Ms. A. Chatterjeefor the Petitioners.

Mr. Sabyasachi Banerjee,
Mr. Ayan Poddarfor the Defacto complainant.

Mr. S. G. Mukherjee, Id. PP,
Mr. Sudip Ghosh,
Mr. Bitoshok Banerjee,
Mr. A. K. Dutta ...for the State.

Read order dated September 24, 2021.

In the said order, we had recorded that prima facie,
there appears to be civil dispute between the members of the

Choudhary Family, which has given rise to the present complaint.

We had asked the learned Advocates for the petitioners to ascertain and indicate by filing affidavit whether the petitioners are prepared to fully cooperate with the investigation including furnishing specimen signature. We had also asked the petitioners to indicate, to show their bona fides, if they are willing to secure the amount in dispute, which is to the tune of Rs.9.36 Crores.

The petitioners have filed separate affidavits. The main affidavit is of the petitioner no.1. In paragraph 5 of the said affidavit, it is stated as follows :

“5. Subject to whatever has been stated and without prejudice to my rights and contentions I undertake as follows :

(a) I shall cooperate with the investigation of Bhowanipore Police Station Case No.147 of 2021 dated 30th July, 2021 to the fullest extent without any reservation.

(b) I shall provide my specimen signature, if called upon to do so.

(c) I undertake to secure an amount of Rs.9.36 crores by investing the same in an interest bearing Fixed Deposit with a nationalized bank and the same shall not be encashed except without express leave of the Learned Trial Court.

(d) Alternatively I undertake to secure an amount of Rs.9.36 crores by keeping the same in a separate bank account.

(e) Alternatively by way of a Fixed Deposit”

Accordingly, the petitioner no.1 shall invest Rs.9.36 Crores in an interest bearing Fixed Deposit Account with a Nationalized Bank within a period of seven days from date and

deposit the Fixed Deposit Receipt with the learned Trial Court. Such Fixed Deposit shall not be encashed without the express leave of the learned Trial Court. Such Fixed Deposit shall be kept renewed till the completion of investigation. In the event of the investigation being unduly delayed, the petitioner no.1/petitioners may approach the learned Trial Court for relaxation of this restriction. If the learned Trial Court is so approached, it shall decide the prayer in accordance with law.

None of the observations made in this order shall have any bearing on any other legal proceedings pending between the petitioners and their group and the defacto complainants and their group before any forum.

Considering the nature of the allegations against the petitioners and the overall facts and circumstances of the case, we are of the view that immediate custodial interrogation of the petitioners is not necessary so long as they cooperate with the Investigating Officer and comply with the conditions mentioned above as also hereinafter.

Accordingly, in the event of arrest, the petitioners, namely Bankey Lal Choudhary, Tushar Choudhary, Vijay Choudhary, Kanta Devi Choudhary and Swaty Choudhary shall be released on bail upon furnishing a bond of Rs.10,000/-each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer and shall abide by the conditions laid down in Section 438(2) of the Code of Criminal Procedure until further orders.

In case the petitioners fail to adhere to any of the conditions mentioned in Section 438(2) of the Code, the learned Court below shall be entitled to cancel the anticipatory bail without further reference to this Court.

The application for anticipatory bail being C.R.M. No.5300 of 2021 is, thus, allowed.

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

(Bivas Pattanayak, J.)

(Arijit Banerjee, J.)