

CRM 5444 of 2021
(via video conference)

Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with Hare Street Police Station Case No. 93 of 2021 dated 01.04.2021 under Sections 406/420/120B of the Indian Penal Code.

In the matter of : **Mr. Anand Kumar Agarwal & Ors.**
..... petitioners

Mr. Milon Mukherjee, Id. Sr. adv.
Mr. Sabyasachi Banerjee
Ms. Sreeparna Das

....For the petitioners

Mr. Rudradipta Nandy

.....For the State

Mr. Daanish Haque
Mr. Abdul Zahid
Mr. Siraj Munir

.....For the de-facto complainant

Petitioners seek anticipatory bail.

Supplementary affidavits filed on behalf of the petitioners be taken on record.

Learned senior advocate appearing for the petitioners submits that the limited liability company purchased a jute from the market. The company paid a portion of it. He relies upon the supplementary affidavit to establish such fact.

He submits that the present police complaint was registered after an order passed under Section 156(3) of the Code of Criminal Procedure. He questions the legality of such order. The pre-requisites to the invocation of Section 156(3) of the Code of Criminal Procedure, were not satisfied. He submits that custodial interrogation of the petitioners are not required.

Learned advocate appearing for the State submits that the sum involved in the present case runs into crores. The petitioners habitually purchased from the farmers and did not pay for the same jute. There are statements of the farmers

recorded under Section 161 of the Code of Criminal Procedure. There are at least 10 police complaints against the petitioners on the same score for which the police are investigating. Given the nature of the offence and the complicity of the petitioners therein, he opposes the grant of bail.

Learned advocate appearing for the de-facto complainant opposes the prayer for grant of anticipatory bail. He highlights criminal antecedents of the petitioners and the fact that with criminal intent the petitioners did not pay the persons entitled to the payment in respect of jute purchase.

There are allegations of cheating against the petitioners. There are materials in the case diary to suggest that the petitioners dealt with the members of the public, particularly his farmers growing jute, purchase the jute from the farmers with the promise to pay and thereafter renege on the promise. The petitioners cannot be allowed to set up the cloak of legal entity of the company. A company acts through human agency. The petitioners as directors of the company are the human agents of the company.

Considering the materials in the case diary and the gravity of the offences and the complicity of the petitioners therein, we are unable to grant anticipatory bail to the petitioners.

The application for anticipatory bail being C.R.M. 5444 of 2021 is, thus, rejected.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)