

CRM 7055 of 2021

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Bowbazar Police Station Case No. 180 of 2021 dated 21.07.2021 under Sections 420/406/465/467/468/471/120B of the Indian Penal Code, 1860.

- A n d -

In the matter of : Mrs. Rachana.

.... Petitioner.

Mr. Priyank Kher
Mr. Rahul Aggarwal

... For the Petitioner.

Ms. Preetu Chaudhury

... For the Defacto Complainant.

Mr. Swapan Banerjee
Mr. Suman De

... For the State

Petitioner is the wife of the director of the company which had taken two loans to the tune of Rs. 85 lakhs from the defacto complainant financial concern.

Learned counsel appearing for the petitioner submits that the firm has repaid around Rs. 50 lakhs to the financial concern and failure to pay the remainder are due to circumstances beyond their control.

It is further submitted that the dispute is not amenable to the territorial jurisdiction of this Court and relates to breach of a loan agreement which does not have a criminal profile. Petitioner is, however, ready and willing to cooperate with the investigation.

Learned counsel appearing for the State submits that the accused persons had relied on forged and fabricated

documents to obtain the loan amount and have failed to repay loan not only to the defacto complainant firm but other financial concerns. It is submitted that custodial interrogation for progress of investigation is necessary.

Learned lawyer for the defacto complainant submits that the accused persons are conducting their business in a wanton and irresponsible manner by reserving exorbitant remunerations for themselves while failing or neglecting to repay the loans outstanding to the defacto complainant and other companies.

We have considered the materials on record. We have also examined the loan agreement executed by and between the parties. Nothing is placed on record with regard to the particulars of any forged/fabricated document, which allegedly was relied upon by the petitioner and other accused persons to procure loan from the defacto complainant concern. On the other hand, materials on record show that there is part payment of the loan amount.

In this backdrop, whether there was initial deception in order to procure the loan or not is a matter to be assessed at the appropriate stage of the proceeding. However, as the matter relates to interpretation of various clauses of the agreement and part payment of the outstanding dues have already been made, we are of the opinion that custodial interrogation for progress of investigation may not be necessary and the petitioner may be granted anticipatory bail.

Accordingly, we direct that in the event of arrest, the petitioner shall be released on bail upon furnishing a bond of

Rs. 50,000/- with two sureties of like amount each, to the satisfaction of the Arresting Officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

Petitioner shall appear before the court below and pray for regular bail within four weeks from date.

The application being CRM 7055 of 2021 is disposed of.

(Bivas Pattanayak, J.)

(Joymalya Bagchi, J.)