

23.02.2021

Item No.131

Ct.No.28

dc.

Rejected

C.R.M. 9083 of 2020

(Via Video Conference)

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

And

In Re : **Gourhari Bera**

... Petitioner.

Mr. Md. Asraf Ali,
Ms. Sabnam Laskar

... For the Petitioner.

Mr. Sudip Ghosh,
Mr. Apurba Kumar Datta

... For the State.

Apprehending arrest in connection with Pingla P.S. Case No. 332 of 2019 dated 18.11.2019 under Sections 409/420/468/506 of the Indian Penal Code, the present application has been preferred.

The learned advocate appearing for the petitioner submits that the allegations in the FIR prima facie do not implicate the present petitioner and as such, no offence under Section 409 of the Indian Penal Code has been made out. The learned advocate further submits that the act of the petitioner as described in the complaint cannot by any stretch of imagination give rise to a criminal case so far as the present petitioner is concerned and he has been falsely implicated. Additionally, he submits that no notice under

Section 41A of the Code of Criminal Procedure was served upon the petitioner which has been one of the contentions advanced on behalf of the State.

The learned advocate appearing for the State opposes the prayer for anticipatory bail and draws the attention of the Court to the audit report and the subsequent resolution. The learned advocate for the State further submits that initially the quantum so stated was small, but in course of investigation, the audit report reflects that about rupees fifty-five lakh is involved by way of misappropriation and the involvement of the petitioner *prima facie* appears from the records of the case.

We have perused the materials on record which include the statement of the witnesses, the relevant part of the audit report and the nature of allegations involved so far as the present petitioner is concerned while discharging his official duty. Having regard to the incriminating materials appearing against the petitioner, we are of the opinion that this is not a fit case for extending the privilege of anticipatory bail to the present petitioner. As such, prayer for anticipatory bail of the petitioner is **rejected**.

CRM 9083 of 2020 is, thus, dismissed.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)