

04.02.2021

Item No.97

Ct.No.28

dc.

Allowed

C.R.M. 9318 of 2020

(Via Video Conference)

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

And

In Re : **Anil Agarwal**

(Mentioned as Anil Kumar Agarwal
in the First Information Report)

... Petitioner.

Mr. Sekhar Kumar Basu,
Mr. Souvik Mitter,
Ms. Arushi Rathore,
Ms. Rajnandini Das

... For the Petitioner.

Mr. Saibal Bapuli,
Mr. Aniket Mitra

... For the State.

Mr. Debasish Roy,
Mr. Iqbal Kabir,
Mr. Shiladitya Banerjee,
Mr. Arnab Chatterjee

... For the *de facto* complainant.

Apprehending arrest in connection with Hare Street P.S. Case No. 29 of 2020 dated 30.01.2020 under Sections 420/465/467/468/471 of the Indian Penal Code, 1860 (G.R. (S) 146/2020), the present application has been preferred.

Mr. Basu, learned senior advocate appearing for the petitioner submits that the petitioner is the director of a company, namely “Dewesh Auto Creative Services Private Limited” (in short, the first company). The first company was approached by one Mr. Ayan Mallick being the director of a company, namely “A. K. Power Industries Private Limited” (in short, the second company) for a loan of Rs.1,00,00,000/- (Rupees one crore only). An appropriate agreement was drawn up while advancing

the said amount on 19th December, 2014. Thereafter an amount of Rs.85,00,000/- (Rupees eighty-five lakh only) was liquidated by the second company. To recover its balance dues, the first company was constrained to file an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 before the National Company Law Tribunal. An amicable settlement was ultimately arrived at between the two companies on 12th March, 2019. Subsequent thereto, the alleged complaint was lodged alleging that the agreement dated 19th December, 2014 is a forged one. In such circumstances, custodial detention of the petitioner is not necessary.

Mr. Bapuli, learned advocate appearing for the State has placed before us the case diary drawing our attention to several documents incorporated in the same.

Mr. Roy, learned advocate appearing for the *de facto* complainant submits that the agreement dated 19th December, 2014 is a forged document. The petitioner has also failed to produce the original document. The *de facto* complainant has thus been misled and sums have been extracted on the basis of a forged document.

We have heard the learned advocates appearing for the respective parties and considered the materials on record. *Prima facie*, it appears that a loan of Rs.1,00,00,000/- (Rupees one crore only) was advanced on the basis of an agreement dated 19th December, 2014. Out of the same, an amount of Rs.85,00,000/- (Rupees eighty-five lakh only) has already been paid by the *de facto* complainant and settlement was also arrived at between the two companies on 12th March, 2019. In the said conspectus, we are of the opinion that custodial detention of the petitioner is not warranted.

Accordingly, we allow the application for anticipatory bail and direct that in the event of arrest, the petitioner, namely **Anil Agarwal** shall be released on bail upon furnishing a bond of Rs.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 subject to

the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on a further condition that the petitioner shall meet with the Investigating Officer once a week on and from 10.02.2021 until further orders.

The application for anticipatory bail, being CRM 9318 of 2020 is, thus, disposed of.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)