

04.03.2021

Item No.34

Ct.No.28

dc.

Allowed

C.R.M. 10769 of 2020

(Via Video Conference)

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

And

In Re : **Sandip Kundu & Ors.**

... Petitioners.

Mr. Debasish Roy,
Mr. Kaushik Chatterjee,
Mr. Tirthankar Dey

... For the Petitioners.

Mr. Madhusudan Sur,
Mr. Monoranjan Mahata

... For the State.

Mr. Suman Chakraborty

... For the *de facto* complainant.

Apprehending arrest in connection with Pandua P.S. Case No. 303 of 2020 dated 03.10.2020 under Sections 420/406/323/380/384/506/34 of the Indian Penal Code, the present application has been preferred.

The present petitioners are associated with Cholamandalam Investment and Finance Company Limited in different designations and posted at various branches. Mr. Roy, learned advocate appearing for the petitioners submits that due to default in EMI, recovery was made in respect of the vehicle which was leased out on a hypothecation

agreement. The present petitioners have no culpability in respect of the allegations and they were working for the company and did not exceed the terms of the agreement which the informant had entered into with the company.

Mr. Sur, learned advocate appearing for the State opposes the prayer for anticipatory bail and submits that there are allegations that the petitioners under the garb of recovery of vehicle has exercised muscle power.

Mr. Chakraborty, learned advocate appearing for the *de facto* complainant submits that the vehicle has yet to be seized by the police authorities and they have preferred an application under Article 226 of the Constitution of India for police inaction.

We have perused the materials in the case diary which include the statements of three witnesses and the application under Section 156(3) of the Code of Criminal Procedure. On an appreciation of the materials available in the case diary and the documents enclosed along with the application for anticipatory bail, *prima facie*, we find that the present case is a subject-matter of officers of the non-banking financial company exercising their power for recovery of a vehicle pursuant to an agreement wherein there were default clauses. In view of the facts and circumstances of this case, we are of the opinion that custodial detention of the petitioners may not be warranted.

Accordingly, we allow the application for anticipatory bail and direct that in the event of arrest, the petitioners, namely, 1. **Sandip Kundu**, 2. **Sukumar Hazra**, 3. **Debnath Nandan**, 4. **Pinku Banik**, 5. **Subir Hazra** and 6. **Ankan Kumar Mandal** shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only) each, 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.

The application for anticipatory bail, being CRM 10769 of 2020 is, thus, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)