

20.12.2021
SL No.35
Court No.1
(gc)

***Circuit Bench of Calcutta High Court
At Jalpaiguri***

**CRM 1171 of 2021
(Via video Conference)**

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed in connection with Bagdogra Police Station Case No.578 of 2020 dated 09.09.2020 under Sections 420/406 of the Indian Penal Code.

And

In the matter of : **Sushil Sarkar**

- Petitioner.

Mr. Taranga Pandit

... For the Petitioner.

Mr. Aditi Shankar Chakbraborty, Ld. A.P.P.,

Mr. A. Biswas,

... For the State

The learned Counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. It is further submitted that the dispute is arising out of a commercial transaction and the petitioner has complied with the notice issued under Section 41(a) of the Cr.P.C.

The learned Counsel for the State, however, opposes the prayer for anticipatory bail and submits the petitioner has complied with the notice issued under Section 41(a) of the Cr.P.C. and has cooperated with the investigation.

Having regard to the materials available in the case diary and the nature and extent of complicity of the petitioner in the commission of alleged offence and also having regard to the fact that the petitioner has cooperated with the investigating agency, we feel

that custodial interrogation of the petitioner is not required. Hence, we are inclined to grant anticipatory bail to the petitioner. The prayer for anticipatory bail is, accordingly, allowed.

Accordingly, we direct that in the event of arrest the petitioner, namely, **Sushil Sarkar**, shall be released on bail upon furnishing a bond of Rs.1,00,000/-, (rupees one lakh), 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.

It is further directed that the petitioner shall meet the I.O. of the case once in a week until further order and shall not leave the jurisdiction of Bagdogra Police Station without the express leave of the Additional Chief Judicial Magistrate, Siliguri.

This order shall remain valid for four weeks from this date within which time, the petitioner shall surrender and obtain regular bail from the Trial Court. We make it clear that the Trial Court while deciding the application for grant of regular bail shall take a decision independent of the observations made by us in this order.

The application for anticipatory bail, being CRM No.1171 of 2021 is, thus, disposed of.

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

(Biswajit Basu, J.)

(Soumen Sen, J.)