

25.01.2022

Sl. No. 08.

Mithun

Ct.No.42.

CRM(SB)/7/2022

(Via Video Conference)

In re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973, order dated 03.01.2022 passed by the learned Additional Sessions Judge, 1st Court, Serampore in Cri. Misc. Case No.646/2021 (G.R. No.1729/2018) pending before the learned Additional Chief Judicial Magistrate, Serampore arising out of Uttarpara Police Station Case No.416/2020 dated 16.11.2020 under Sections 420/406/34 of the Indian Penal Code.

In the matter of : **Pritam Das.**

...Petitioner.

Ms. Anusuya Sinha, Adv.
Mr. Debapratim Guha, Adv.

... for the petitioner.

Mr. Sudip Ghosh, Adv.
Mr. Apurba Kr. Datta, Adv.

...for the State.

Petitioner is the proprietor of a food chain business under the name and style 'Bangaliyana'. The business was started in the year 2018. In course of business, he entered into franchisee, contract with number of persons for delivery of food products under the brand name of 'Bangaliyana' and received consideration price from them. Subsequently, since 2020, he failed to supply foods to the said franchisees.

So far as the instant case is concerned, franchisee agreement was entered into in the month of January, 2020. When the franchisee, namely, Mr. Priyankar Mukherjee was not

delivered with food products by the petitioner, he lodged a complaint under Section 156 (3) of the Code of Criminal Procedure before the learned Chief Judicial Magistrate, Serampore at Hooghly.

The crux of the allegation made by the *de facto* complainant is that “even after receiving huge amount of money from the complainant, the accused persons are neither helping in running the franchisee outlet as per the terms of the agreement nor are refunding the money taken as loan undersigned. That the accused persons have misappropriated the money given for franchisee outlet for their wrongful gain, thereby causing wrongful losses to the complainant.”

It is submitted by the learned Advocate for the accused/petitioner that he is in custody for about 55 days. The dispute between the parties is essentially in the nature of violation of terms of contract for which the efficacious remedy is by filing the suit for specific performance of contract or damages.

The learned Advocate for the petitioner also submits under instruction that the petitioner will take all possible steps for repayment of the sum if he is released on bail.

Learned Public Prosecutor-in-Charge, on the other hand, has raised objection against the prayer for bail on the ground that the petitioner has not only cheated and misappropriated the present *de facto* complainant but also two other persons for which two separate cases were instituted against him.

In turn, the learned Advocate for the petitioner submits that in one of such cases, this Court granted bail to the petitioner in connection with CRM 7697 of 2021.

Having heard the learned Advocates for the petitioner and the State and on careful perusal of the entire materials on record, this Court is of the view prima facie that the dispute is essentially civil in nature. Moreover, the petitioner has agreed to take steps for repayment of money to the de facto complainant if he is released on bail. Considering such circumstances, I am inclined to release the petitioner on bail.

The petitioner shall be enlarged on bail of Rs.20,000/- with two sureties of Rs.10,000/- each to the satisfaction of the learned Additional Chief Judicial Magistrate, Serampore with further conditions that if on bail, he must meet the Investigating Officer once in a fortnight till completion of investigation or until further order, whichever is earlier.

If the petitioner violates any of the above conditions, the order of bail shall be cancelled without further reference to this Bench.

Parties are at liberty to act on the server copy of the order.

(Bibek Chaudhuri, J.)