

08.03.2022
Item No.07
Suman
Ct.42

(Via Video Conference)

CRM (SB) 38 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure.

And

In the matter of: **Saifuddin Sk. @ Jasim Sk.**
Vs.
The State of West Bengal

Mr. Sabir Ahmed
Mr. Mujibar Ali Naskar
Mr. S. Sarkar
Mr. Apan Saha
Mr. T. Ahmed

...for the petitioner

Mr. Sudip Ghosh
Mr. Apurba Kumar Datta
...for the State

The petitioner is an employee of Tata Motors Finance Corporation. One Amir Sk. purchased a truck taking loan from Tata Motors Finance Company and entrusted the de facto complainant to run the said vehicle as his driver. The de facto complainant lodged a complaint on 3rd February, 2022 that the petitioner along with some unknown men forcibly took control of

the said vehicle from him and did not allow him to drive the said vehicle.

On the basis of the said complaint police registered a case under Sections 341/188/384/34 of the Indian Penal Code against the petitioner. He was arrested and is in custody for 26 days. It is submitted by Mr. Ahmed, learned advocate for the petitioner that indisputably the owner of the vehicle purchased the said truck by taking loan from Tata Motors Finance Company. It is also not in dispute that he failed to repay the loan amount. The vehicle was hypothecated to Tata Motors Finance Company. According to the agreement executed by and between the purchaser and Tata Motors Finance Company ownership of the hypothecated vehicle still remains to Tata Motors Finance Company till the recovery of the loan amount. It is also submitted by Mr. Ahmed that during covid period the Company gave moratorium to the owner of the vehicle so that he could pay E.M.I. on easy installments. When he failed to pay the E.M.I., the matter was referred to arbitration and as per order of the arbitrator the petitioner being an employee of Tata Motors Finance Company took charge of the said vehicle.

Learned P.P.-in-charge has raised objection against the prayer for bail on the ground that there

is an order of temporary injunction against Tata Motors Finance Company in a suit filed by the owner of the vehicle and the defendant/opposite party were restrained from disturbing physical possession of the plaintiff with regard to the concerned vehicle otherwise then the due process of law. Mr. Ahmed submits that Tata Motors Finance Company was unaware about any such order passed by the Civil Court.

On the contrary, it is submitted by the learned P.P.-in-Charge that the driver of the vehicle showed the order to the petitioner, but he did not care to obey the order of the Civil Court.

Considering the fact that the petitioner is a mere employee of Tata Motors Finance Company. He acted under the direction of his superior. It is true that when there is an order passed by the competent Civil Court restraining Tata Motors Finance Company from seizing the vehicle, the petitioner ought not to have seized the vehicle and taken over the charge of the same.

Considering entire aspect of the matter and in view of the fact that the petitioner is merely an agent of Tata Motors Finance Company, the prayer for bail is considered and allowed.

The petitioner may find bail of Rs.10,000/- (Ten Thousand only) with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Nadia, Krishnanagar with further condition that if on bail he shall meet the Investigating Officer once in a fortnight until further order and on the first date of his visit he shall file an affidavit stating his residential address, mobile phone number and Aadhaar Card number so that he may be tracked during trial of the case.

The application is, thus, disposed of.

(Bibek Chaudhuri, J.)