

28.04.2022
Item No.02
Suman
Ct.42

CRM (SB) 78 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with Nakashipara P. S. Case No. 148 dated 10.03.2022 under Sections 406/447/323/506/34 of the Indian Penal Code.

And

In the matter of: **Sushankar Biswas alias**
Shusankar Biswas
Vs.
The State of West Bengal

Mr. Subir Ganguly
Mr. Sumanta Ganguly
...for the petitioner

Mr. Tanmay Kumar Ghosh
Ms. Pritha Paul
...for the State

Having heard the learned advocates for the petitioner and the State Respondent and on careful consideration of the materials on record it appears that the de facto complainant had business relationship with the father of the present petitioner. As alleged by the de facto complainant some amount of money was due to the father of the present petitioner and on 2nd March, 2022 the de facto complainant went to the house of the father of the present petitioner to claim payment of the said dues.

At that time, the petitioner along with his father and elder brother abused the de facto complainant, assaulted him and told that they would not pay the amount to the de facto complainant.

The accused/petitioner was arrested without serving a notice under Section 41A of the Code of Criminal Procedure. The guidelines of **Arnesh Kumar versus State of Bihar** were not followed. In spite of such gross irregularity the learned Chief Judicial Magistrate, Nadia allowed the prayer for police custody of the present petitioner. He is in custody approximately for 24 days.

I have carefully perused the case diary. Even assuming that the de facto complainant had business relationship with one Sushil Biswas, father of the present petitioner and the allegation that took place on 2nd March, 2022 as true on its face value, the petitioner may at best be implicated for committing offence under Section 323 of the Indian Penal Code which is bailable in nature. Therefore, this Court is of the view that the petitioner is entitled to be released on bail immediately.

The petitioner be enlarged on bail of Rs.5,000/- with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Nadia.

Considering the nature of allegation attributed to the petitioner I do not think that further conditions are required to be imposed upon the petitioner as conditions for bail.

The learned advocate for the petitioner is at liberty to communicate server copy of this order to the learned Chief Judicial Magistrate, Nadia and in such event the learned Chief Judicial Magistrate, Nadia shall act upon the server copy of this order.

The instant application is, thus, disposed of.

(Bibek Chaudhuri, J.)