

04.01.2022
Item no. 247
Court No.32
Avijit Mitra

C.R.M. 7716 of 2021 (through video conference)

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure;

And

In Re : Harihar Swain

.... petitioner

Mr. Jatindra Barik

....for the petitioner

Mr. Madhusudan Sur,

Mr. Monoranjan Mahato

..... for the State

Apprehending arrest in connection with Electronic Complex Police Station Case No.75 of 2019 dated 16.07.2019 under Sections 406/420/506/120B of the Indian Penal Code, the present application has been preferred.

Mr. Barik, learned advocate appearing for the petitioner submits that the petitioner took a loan of Rs. 31,02,500/- from M/s. Srei Equipment Finance Ltd. on 15th February, 2018 upon executing an agreement. It was agreed between the parties that the loan amount would be returned by 15th February, 2023. The petitioner had already paid a substantial portion of the loan amount and the vehicle which was purchased by the petitioner was stolen and in view of financial stringency, the remaining amount could not be repaid. In view of such facts and as the dispute has a civil profile, custodial interrogation is not warranted.

Mr. Sur, learned advocate enters appearance on behalf of the State and draws our attention to several documents in the case diary. Answering a query of this Court he submits that an amount of Rs.5,68,948/- is still due from the petitioner.

He further submits that Section 41A notice was not complied with by the petitioner.

Mr. Barik, in reply, submits that due to pandemic situation the petitioner could not meet with the Investigating Officer.

Having heard the learned advocates appearing for the respective parties and considering the materials in the case diary, the nature of allegations and as the dispute has a civil profile, we are of the opinion that custodial interrogation is not warranted.

Accordingly, we direct that in the event of arrest, the petitioner, namely, **Harihar Swain**, 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, 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 with a further condition that the petitioner shall meet with the Investigating Officer once a fortnight till investigation is completed.

The petitioner shall attend the learned Trial Court on all the dates as specified for hearing.

The petitioner shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner fails to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel the petitioners' bail without any further reference to this Court.

The application for anticipatory bail being C.R.M. 7716 of 2021 is disposed of.

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

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)