

07.01.2022

Court No.32
rpan / 09

CRM 7967 of 2021

[through Video Conferencing]

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

And

In Re.: **Afsar Hossain**

- Petitioner

Mr. Ayan Bhattacharya,
Mr. Subhendu Bhattacharjee
... for the Petitioner.
Mr. Arijit Ganguly,
Mr. Sanjib Kr. Dan
... for the State.
Mr. Arindam Jana
... for the victim.

Apprehending arrest in connection with Harishchandrapur Police Station Case No.738 of 2021 dated 25.09.2021 under Sections 420/406/409/34 of the Indian Penal Code, 1860, the petitioner files the instant application praying for anticipatory bail.

Mr. Bhattacharya, learned lawyer appearing on behalf of the petitioner submitted that some of the other co-accused were granted anticipatory bail. However, he admitted that one of the co-accused, namely, Rosanara Khatun was denied anticipatory bail by this Bench. She further submitted that custodial interrogation is not necessary because all the evidences are based on documents. Accordingly, he prayed for anticipatory bail.

Mr. Jana, learned lawyer appearing on behalf of the victim submitted that strong incriminating elements are there against the present petitioner along with others all of whom were involved in defalcation of public money or instrumental to defalcation of

public money. The present petitioner is one of the accused, who prepared a list of persons in whose name fake accounts were created for siphoning of public money. Since he is one of the conspirators and co-accused, his anticipatory bail is strongly opposed by Mr. Jana.

Mr. Dan, the learned lawyer appearing on behalf of the State also opposes the application for anticipatory bail. He invited our attention to the statements of the witnesses and a report of the Investigating Officer of the case wherefrom it appears that the name of the present petitioner has transpired in connection with the alleged offence. He also submitted that the present petitioner is hiding in the State of Bihar along with others for which they could not be arrested. There is also a prayer made by the Investigating Officer for issuance of warrant of arrest against the present petitioner and other accused persons.

We have heard rival submissions and perused the C.D. It appeared from the record that one of the co-accused was granted anticipatory bail by a coordinate Bench of this Court. At the same time, we found that one of the co-accused was denied anticipatory bail by this Court. The name of the present petitioner surfaces from the statements of the witnesses which apparently show his complicity in the alleged crime. We also noted that the report of the I.O. shows that the present petitioner is absconding and his arrest is necessary for custodial interrogation. We also found incriminating materials against the present petitioner.

Considering extent of incriminating element, nature of allegations, conduct of the present petitioner and the stage of

investigation, we are, therefore, not inclined to allow the anticipatory bail to the present petitioner and the same stands rejected.

The application for anticipatory bail, being CRM 7967 of 2021 is, thus, dismissed.

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.)