

30.08.2022

Serial no. 07

[Dd]

(Anticipatory bail)

Allowed)

CRM (A) 4022 of 2022

In re : An Application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure in connection with **Bankura** Police Station Case No. **282** of **2022** dated **17.07.2022** under Sections **406/420/323/354B/506/34** of the Indian Penal Code and under Section **25(1A)** of the Arms Act.

-And-

In the matter of : **Mahammad Sahjahan Ansari**

... .. Petitioner

Mr. Kallol Mondal (Via Video conference)

Mr. Amit Roy,

Mr. Tanmoy Biswas, Advocates

... .. For the Petitioner

Mr. Saswata Gopal Mukherji, Id. PP

Mr. Rudfradipta Nandy, Id. APP

Mr. Sanjoy Bardhan,

Ms. Baishakhi Chatterjee, Advocates

... ..For the State

Petitioner prays for anticipatory bail.

Learned advocate appearing for the petitioner submits that the petitioner was falsely implicated. He refers to the various police complaints lodged against the petitioner. He submits that there are transactions between the private parties which resulted in civil disputes.

Learned Public Prosecutor refers to the materials in the case diary. He refers to the police complaint. He submits that in the process of investigation, the de facto complainant recorded a statement under Section 164 of the Criminal Procedure Code where he stated about money changing hands on the score of promise of employment. He refers to other statements recorded under Section 161 of the Criminal Procedure Code where, two other persons complained against

the petitioner in the same vein. They complained that the petitioner accepted money with the promise of job in a Government agency. He refers to the WhatsApp chat between the petitioner and the de facto complainant where the promise of payment of money on the promise of job is recorded. He submits that the police are investigating the case. At this stage custodial interrogation is necessary to unearth the scope and ambit of the racket that the petitioner is involved in. He opposes the prayer for anticipatory bail.

Learned Public Prosecutor refers to the statement of the brother of the petitioner who was arrested. He submits that such brother recorded a statement under Section 161 of the Criminal Procedure Code which is relevant under Section 10 of the Evidence Act. He submits that the brother of the petitioner implicates the petitioner in the racket of extraction of money on the promise of Government job.

The police complaint is dated July 17, 2022 which was registered as a First Information Report on July 17, 2022. The police are investigating the case, *inter alia*, under Sections 406/420/323/354B/506/34 of the Indian Penal Code, 1860. The police are yet to conclude the investigation. In the process of investigation, the de facto complainant recorded a statement under Section 164 of the Criminal Procedure Code. The statement of the de facto complainant under Section 164 of the Criminal Procedure Code speaks of money being taken on the promise of job.

There is WhatsApp chat allegedly between the petitioner and the de facto complainant with regard to receipt of money on the promise of Government job. Such WhatsApp chat is prior to the lodgment of the written complaint. The written complaint does not allude to such aspect.

There are two statements recorded under Section 161 of the Criminal Procedure Code of two other persons where they

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claim that they were cheated out of money on the promise of job by the petitioner.

It is not understood why the police did not start a fresh police case as against the petitioner on the allegation that the petitioner is extracting money from the members of the public on the promise of job although such powers are available to the police under Section 154 of the Criminal Procedure Code. As the police compliant stands, it alludes to money transactions that is not connected with money being taken on the promise of job. As the police compliant stands, it throws up disputes with regard to taking of accounts, which are civil in nature.

In such circumstances, we are inclined to grant anticipatory bail to the petitioner.

Accordingly, we direct that in the event of arrest the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand Only), with two sureties of like amount each, to the satisfaction of the arresting officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioner shall report before the Investigating Officer once in a fortnight till the conclusion of the investigation and on further condition that the petitioner shall appear on every date before the jurisdictional Court on and from the date fixed for appearance of the accused and in default the jurisdictional Court will pass appropriate order to secure the presence of the petitioner in Court including cancelling the anticipatory bail granted without further reference to this Court.

Prayer for anticipatory bail of the petitioner is **allowed**.

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(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)