

02.03.2022

COURT : 01
ITEM : 59
MATTER : 438
STATUS : ALLOWED
TRANSCRIBER : Saswata

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

CRM (A) 104 of 2022

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed in connection with Bagdogra Police Station Case No. 38/2022 dated 12.01.2022 under Sections 411/413/414 of the Indian Penal Code read with Section 25 of the Antiquities and Art Treasures Act, 1972.

And

In the matter of : **Partha Kumar Das**

...Petitioner

Ms. Tripti Pandey

Mr. Sampad Das

...for the Petitioner

Mr. Arun Kumar Sarkar

Mr. Saikat Chatterjee

...for the State

Apprehending arrest, the petitioners have filed the instant application for anticipatory bail in connection with Bagdogra Police Station Case No. 38/2022 under Sections 411/413/414 of the Indian Penal Code read with Section 25 of the Antiquities and Art Treasures Act, 1972.

The Antique bust of Lord *Vishnu* was recovered at the time of interception of a motorcycle carrying two persons and the said antique bust was recovered from their possession. At the time of interrogation, one of the said accused disclosed the name of the petitioner who had given such bust for selling to an intending purchaser. Admittedly, the petitioner is working as an Upper Division Clerk in the Police Department. According to the learned advocate for the petitioner, because of such previous animosity, he has been implicated as a revenge. It is further submitted that there is no incriminating materials as of now available against the petitioner who is a victim of circumstances and of the peer rivalry.

Learned advocate for the State opposes the prayer for anticipatory bail. It is submitted that the investigation is at the nebulous stage and submits that the name of the petitioner was disclosed by one of the accused, apprehended at the spot and, therefore, custodial interrogation of the petitioner is necessary.

After hearing respective submissions and on perusal of the materials in the case-diary it transpires that except the offence under Section 413 of Indian Penal Code, the other offences are bailable in nature and triable by the Magistrate Court. Section 413 pertains to dealing with a property which he knows or has reason to believe to be stolen property shall be punished with an imprisonment of either description or term which may extend to ten years.

The statement of the co accused, without any disclosure of any incriminating materials, is not admissible in evidence. Furthermore, the petitioner is employed in the Police Department as an Upper Division Clerk and have no role to play in the investigation. We, thus, think that this is a fit case where the petitioner shall be extended the benefit of Section 438 of the Code of Criminal Procedure.

As such, the prayer for anticipatory bail is ***allowed***.

Accordingly, in the event of arrest the petitioner namely **Partha Kumar Das** shall be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local to the satisfaction of the arresting officer on further condition as enshrined under Section 438(2) of the Code of Criminal Procedure and on further condition that the petitioner shall meet the Investigating Officer once in a week and on further condition that the petitioner shall not leave the jurisdiction of Darjeeling District.

The application being CRM (A) 104 of 2022 is accordingly disposed of.

(Harish Tandon, J)

(Rabindranath Samanta, J)