

5 10.01.2023
(AD) Court No.29
(Allowed)

C.R.M. (A) 32 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with G.R. (NS) Case No.705 of 2022 arising out of **Bowbazar** P.S. Case No.**206 of 2022** dated **12/08/2022** under Sections **406/418/420/506/120B** of the Indian Penal Code.

And

In the matter of: **Rajesh Ghosh & Anr.**

....petitioners.

Mr. Mrityunjoy Chatterjee

...for the petitioners.

Mr. S. S. Imam
Mr. Sandip Kundu

...for the State.

Mr. Sekhar Kumar Basu, Ld. Sr. Advocate
Mr. Sourav Chatterjee
Mr. Arnab Das
Ms. Epsita Bhattacharyya

... for the de facto complainant.

Petitioners pray for anticipatory bail.

Learned Advocate appearing for the petitioners submits that the petitioners were falsely implicated. According to him, the disputes emanate out of a written contract. There is a civil suit pending in respect of such contract where the petitioners claimed money from the de facto complainant.

State and the de facto complainant are represented.

Learned Advocate appearing for the State refers to the materials in the case diary.

Learned Advocate for the de facto complainant submits that the petitioners moved a revisional application in which stay was refused. The petitioners are guilty of bench hunting. He submits that the petitioners were entrusted with the work of supply of transformers. A sum of Rs.21.75 lakhs was paid as

advance to the petitioners. The petitioners did not work in terms of the contract. Drawings were sent to the de facto complainant and for which, a bill in excess of Rs.26 lakhs was raised. The de facto complainant was not served with any cause papers of any civil suit.

Apparently, there was a contract in writing between the private parties relating to supply of transformers. There are disputes relating to such contract. According to the petitioners, it discharged the obligations under the contract and raised bill on the de facto complainant which the de facto complainant is not paying. Consequently, the petitioners filed a civil suit for recovery of the bills raised. Petitioners also lodged a criminal case against the de facto complainant. De facto complainant lodged the criminal complaint claiming that they were defrauded. The disputes emanate out of a written contract.

Requirement of custodial interrogation of the petitioners at this stage is not felt.

In such circumstances, we grant anticipatory bail to the petitioners.

Accordingly, we direct that in the event of arrest, the petitioners 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 also 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 no.1 will report before the Investigating Officer once a fortnight till the conclusion of the

investigation and petitioner no. 2 will cooperate with the investigation till the conclusion of the investigation and on condition that the petitioners 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 petitioners in Court including cancelling the anticipatory bail granted without further reference to this Court.

The prayer for anticipatory bail of the petitioners is allowed.

Report as called for by the order dated January 6, 2023 filed in Court be taken on record.

Personal appearance of Deputy Commissioner of Police is dispensed with.

C.R.M. (A) 32 of 2023 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)