

29.03.2023

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Ct. No. 29

KAUSHIK

Allowed

C.R.M.(A) 1290 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Coke-oven** Police Station Case No. **11** of **2023** dated **14.01.2023** under Sections 406/420 of the Indian Penal Code, 1860.

And

In Re : Abdur Rahaman

..... petitioner

Md. Wasim Akram

....for the petitioner

Mr. Amarta Ghosh

Mr. Siddhartha Paul

Ms. Poulomi Chatterjee

....for the de-facto complainant

Mr. P. K. Dutta

Mr. Pradipta Ganguly

....for the State

Petitioner prays for anticipatory bail.

Learned advocate appearing for the petitioner submits that, there were business dealings between the petitioner and the de-facto complainant. There is a proceeding pending under Section 138 of the Negotiable Instrument Act as against the petitioner. According to him, the disputes are essentially civil in nature.

State and the de-facto complainant are represented.

Learned advocate appearing for the de-facto complainant submits that, the cheque issued by the petitioner was

dishonoured for insufficient funds. According to him, therefore, a case of cheating stands made out.

Apparently, the petitioner and the de-facto complainant were in a commercial relationship. Apparently, amount was due and payable by the petitioner to the de-facto complainant for which, a cheque was issued. There is a proceeding pendig under Section 138 of the Negotiable Instrument Act for dishonour of the cheque. It would be presumptuous, at this stage, to assume that dishonour of a cheque simply on the ground of insufficient fund makes out a case of cheating.

In such circumstances, we 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/-, 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 meet the Investigating Officer as and when called for till the conclusion of the investigation and on 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.

This application for anticipatory bail is, thus, allowed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)