

19.05.2023

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Ct. No. 29

CHC

Allowed

C.R.M.(A) 2076 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with CGR Case No.363 of 2023 arising out of **New Alipore** Police Station Case No. **15** of **2023** dated **04.02.2023** under Sections **404/420/466/467/468/471/120B** of the Indian Penal Code.

And

In the matter of : Prabir Kumar Sarker alias Prabir Ranjan
Sarker & anr.

..... petitioners

Mr. Debasis Roy,
Mr. Sujan Chatterjee
....for the petitioners

Mr. Saibal Bapuli, Ld. A.P.P.
Mr. Arani Bhattacharya
....for the State

Petitioners pray for anticipatory bail.

Learned advocate appearing for the petitioners submits that petitioners were falsely implicated. He draws the attention of the Court to a civil suit filed in respect of the criminal complaint. He contends that, the plaintiff there failed to obtain an order of injunction. As against the refusal to grant injunction, an appeal was preferred before this Hon'ble Court. He submits that the plaintiff of the civil suit is the de facto complainant.

Learned advocate appearing for the State draws the attention of the Court to the materials in the case diary.

Apparently, there are civil disputes between the private parties. The de facto complainant as the plaintiff filed Title Suit No.1203 of 2022 before learned First Civil Judge (Senior Division), at Alipore. Such suit is pending. The petitioners before us are defendant nos. 2 and 6 of such civil suit.

The materials in the case diary does not disclose requirement of custodial interrogation of the petitioner before us.

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 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 petitioners shall meet the Investigating Officer once in a month till the conclusion of 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.

This application for anticipatory bail is, thus, allowed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)