

05.07.2023

Sl. 8

Court No. 29

Suvayan

(Allowed)

C.R.M. (A) 2343 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Raghunathganj** Police Station Case No. **672 of 2020** dated **31.12.2020** under Sections **120B/420/406/408/468/471/34** of the IPC.

And

In the matter of: **Bamdev Mondal alias Bamdeo**

....petitioner.

Mr. Ranjan Kali

Ms. Mili Saha

Ms. Payel Nath

Ms. Anindita Maity

...for the petitioner.

Mr. Madhusudan Sur, APP

Mr. Dipankar Paramanick

...for the State.

Mr. Md. Zeeshanuddin

Mr. Md. Shehabuddin

...for the de facto complainant.

1. Heard learned Counsel for both the parties.
2. The present petitioner is alleged to have defrauded the informant, under whom he was serving, by tampering the weights of paddy and making false bills in respect of the paddy supply. In the process the petitioner is alleged to have defrauded the informant of Rs. 72 lakhs.
3. Learned Counsel for the State is quite emphatic on the undertaking of the petitioner before the witnesses to the effect that he has admitted his guilt of defrauding the informant of the amount alleged. Now it is submitted by both learned Counsel for the State and learned Counsel for the informant that condition be imposed on the petitioner to repay the amount or furnish undertaking to repay the amount by intervention of the I.O. in the event he is released on anticipatory bail.
4. Though there is little element of criminality in the alleged

action of the petitioner, the matter being a business transaction and the petitioner having stated to have admitted his guilt, colour of civil dispute is also manifest. Section 438 Cr.P.C. is concerned with purely the liberty of a person on the basis of presumption of innocence till the guilt is proved. When the legislature, in its wisdom, has not thought it proper to impose any fetters on the liberty to be granted under Section 438 Cr.P.C., it is not the duty of the Court to act as recovery agent of the informant while exercising the power under Section 438 Cr.P.C.

5. In the present case it is fairly submitted at the Bar that the investigation is almost completed and the expert report has also been filed. We do not find any justification for custodial interrogation of the petitioner in the present case.
6. Regard being had to such facts and submissions, factum of permanent residence of the petitioner, status of the petitioner in the society and substantial progress in the investigation, it is directed that the petitioner shall be released on bail by the Arresting Officer in the event of his arrest on such terms and conditions as deemed just and proper in the facts and circumstances of the case in the aforesaid P.S. case.
7. The concerned Arresting Officer is hereby directed to act upon the server copy of this order.
8. Within 21 days from today the petitioner shall appear before the I.O. alongwith a server copy/certified copy of this order. If server copy is supplied, learned I.O. shall act upon that.
5. Accordingly, the prayer for the anticipatory bail is allowed.

6. The application being **CRM (A) 2343 of 2023** is disposed of.

(Chitta Ranjan Dash, J.)

(Apurba Sinha Ray, J.)

