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10.08.2023.
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C.R.M.(A) 2926 of 2023

In the matter of: an application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 12.07.2023 in connection with Hare Street Police Station Case No. 361 of 2022 dated 22.12.2022 under Sections 420/406/120B of the Indian Penal Code.

And

In re.: Manish Aggarwal. ... Petitioner

Mr. Vipul Kundalia,
Mr. Kushagar Shah,
Mr. Pinak Kumar Mitra. ... for the petitioner

Mr. Sudip Ghosh, Id. Sr. Govt. Advocate,
Mr. Bitasok Banerjee. ... for the State.

1. Heard the learned Counsel for the parties.
2. The gist of the allegation is that the complainant had supplied goods amounting to Rs.4,09,71,490/- to the Company of which the present petitioner is a Director, though it is pleaded that the petitioner was not a Director at the time the alleged transaction took place. It is not disputed that it is a business transaction and it is continuing since 2018 between August to October but the business relationship of the Company of which the present petitioner is a Director with the informant dates back to 2006.
3. From the materials collected so far and the statement of the witnesses recorded under Section 161 of the Code of Criminal Procedure, we do not find any element of Section 420 of the Indian Penal Code at least prima facie.
4. It is, however, submitted by the learned Counsel for the State that though the learned Magistrate while

forwarding the complaint under Section 156(3) of the Code of Criminal Procedure has specifically ruled that this is a dispute of civil nature, it has come to the knowledge of the Investigating Agency though material has since not been collected that the petitioner in similar fashion has duped others also.

5. When a particular transaction is disputed by the petitioner, on false ground or true ground, this Court at this stage on the basis of police papers cannot come to a conclusive finding so far as the ingredients of Section 406 of the Indian Penal Code or Section 420 of the Indian Penal Code are concerned.

6. The petitioner is stated to have complied with notice under Section 41A of the Code of Criminal Procedure which is disputed by the learned Counsel for the State.

7. Be that as it may, from the records of the case we are prima facie satisfied that this is clearly a business transaction and element of criminality in the transaction, if any should be best left to the wisdom of the learned Trial Court.

8. Regard being had to such facts and submissions, factum of permanent residence of the petitioner, nature of allegation and substantial progress in investigation, it is directed that the petitioner shall be released on bail by the Arresting Officer in the event of his arrest in the G.R.(S) Case No. 1506 of 2022 arising out of the aforesaid P.S. case on such terms and conditions as deemed just and

proper in the facts and circumstances of the case including the conditions:

- (i) The petitioner is directed to appear before the Investigating Officer of the case as and when required and co-operate in the investigation.
- (ii) The petitioner is further directed to produce all relevant documents required by the Investigating Officer of the case subject to right of his withdrawal of such document if it has the tendency to disclose defence.

9. Accordingly, the prayer for the anticipatory bail is allowed.

10. The application being CRM(A) 2926 of 2023 is disposed of.

11. The Arresting Officer is hereby directed to act upon the server copy of this order.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)