

01.09.2023

SL. 6

Court No. 29

Sourav

(Allowed)

C.R.M. (A) 3594 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Beniapukur** Police Station Case No. **21** of **2023** dated **08.01.2023** under Sections **420/120B** IPC.

And

In the matter of: **Lokesh Mittal**

....petitioner.

Mr. Saryati Datta
Mr. Chitrak Biswas

...for the petitioner.

Mr. Rudradipta Nandy, Ld. APP
Mr. Subroto Roy

...for the State.

1. Heard learned Counsel for the parties.
2. From the materials in the CD placed before us, it is found that the present petitioner is manufacturer of mask which had ample demands during COVID in 2020. The informant placed order for supply of surgical masks worth Rs. 20 lakhs to the present petitioner in March 2020 and Rs. 5 lakhs was given as advance through RTGS.
3. Thereafter, a Central Government notification was issued banning manufacture and supply of surgical masks by different undertakings. That notification was, however, withdrawn in July, 2020. Thereafter, also the petitioner failed to supply the masks and the informant is stated to be running from pillar to post for payment of Rs. 5 lakh that was given to the petitioner.
4. From the narration of events, we are of the view that this is purely a commercial dispute without any element of

criminality at least *prima facie* and the payment having been made through RTGS, there may not be any denial of receipt by the petitioner and the proper forum, in our considered view is a common law forum.

5. Regard being had to the facts and submission, factum of permanent residence of the petitioner, nature of allegation, nature of transaction and substantial progress in investigation, it is directed that the petitioner shall be released on bail in the event of his arrest by the Arresting Officer in the aforesaid P.S. case on such terms and conditions as deemed just and proper in the facts and circumstances including the conditions that:
 - i) the petitioner is directed to appear before the I.O. once in a fortnight on the day and time fixed by the I.O. for the purpose of investigation till submission of Final Form.
6. The petitioner is directed to appear before the I.O. within 21 days from today along with a server copy or certified copy of this order.
7. Accordingly, the prayer for the anticipatory bail is allowed.
8. The application being **CRM (A) 3594 of 2023** is disposed of.
9. The I.O. is hereby directed to act upon the server copy of this order, if required.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

