

05.10.2023.

Item No. 54

Court No.1

ap

*CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE*

C.R.M. (A) No. 690 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 filed on 18.08.2023 in connection with Bhaktinagar Police Station Case No. 473 of 2023 dated 10.06.2023 under Sections 406/420/465/468/471/120B of the Indian Penal Code.

And

In the matter of: **Arijit Roy.** ...petitioner

Mr. Sabyasachi Banerjee,
Mr. Abhijit Sarkar,
Mr. Milindo Paul,
Mr. Nabankur Paul,
Mr. Deborshi Dhar,
Mr. Sumit Ghosh. ...For the petitioner

Mr. Aditi Shankar Chakraborty, APP
Mr. Kallol Acharjee,
Mr. Arjun Chowdhury.For the State

1. The application for anticipatory bail is made by the petitioner, who is an employee of the West Bengal Financial Corporation, Siliguri Office.

2. It is submitted that FIR No. 473 of 2023 dated 10.06.2023 has been registered by the Bhaktinagar Police Station under Sections 406/420/465/468/471/120B of the Indian Penal Code.

3. This Court has taken the liberty of setting out the Sections since ex facie offences under Sections 406/420 of the Indian Penal Code are grossly inconsistent with each other if not mutually exclusive.

4. Be that as it may, it appears to this Court that the de facto complainant is the landlord of a premises, who has claimed that his tenant, who is also a borrower of the West Bengal Financial Corporation (WBFC), Siliguri Office has cheated him. The petitioner has been roped in as an accused in the FIR since the West Bengal Financial Corporation has financed certain medical equipments which are stored in the tenanted premises.

5. The landlord is stated to have resisted the possession of the hypothecated goods by the WBFC under Section 29 of the State Financial Corporations Act, 1951. The WBFC has been left in the lurch. It is not aware of the fate of the machinery financed by it charged under hypothecation.

6. This Court is of the view that the petitioner and the other officials of the WBFC, who have been accused in the complaint by the landlord and consequently in the FIR, cannot be charged for any offence committed by the borrower/tenant against the complainant.

7. This Court would have normally expected the WBFC, to have challenged the FIR itself, inter alia, when both Sections 406 and 420 of the Indian Penal Code have been included along in the same complaint and FIR.

8. In the above circumstances, this Court is inclined to allow the application for anticipatory bail of the petitioner.

9. It is directed that in the event of arrest, the petitioner shall be released on bail unconditionally. The petitioner

shall, however, co-operate in the investigation against the principal accused nos.1 and 2. Such co-operation is also warranted in the interest of the recovery of the dues of the WBFC.

10. Although not relevant for the purpose of instant proceedings, the FIR registered at the instance of the West Bengal Financial Corporation being No. 396 of 2023 dated 19th May, 2023 with the Bhaktinagar Police Station shall be investigated as expeditiously as possible. All attempts shall be made by the police to recover the hypothecated machinery.

11. The Case Diary be returned.

12. C.R.M. (A) No. 690 of 2023 is, thus, disposed of.

13. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Supratim Bhattacharya, J.) (Rajasekhar Mantha, J.)