

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

10.01.2023
Court No.1
(skb 51)

CRM(A) 606 of 2022
(Via Video Conference)

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 in connection with Dinhata Police Station Case No. 56 of 2022 dated 03.02.2022 under Sections 409/420 of the Indian Penal Code.

And

In the matter of: **Soumen Das**

. **Petitioner.**

Mr. Debasish Ray,
Mr. Sudip Guha

... For the Petitioner.

Mr. Kallol Acharjee,
Ms. Namrata Das

... For the State.

The petitioner was granted interim protection by a coordinate Bench on 18th October, 2022 subject to the petitioner making payment of the outstanding amount of Rs.14.50 lacs by way of monthly installments.

Learned counsel appearing for the petitioner submits that the petitioner was a Toll Collector and could not deposit the amount of Rs.70,000/- per month by reason of the negligible movement of vehicles during Covid-19 pandemic. Counsel submits that the petitioner is not in a position to deposit any amount beyond Rs.2 lacs. According to counsel, the petitioner was discharged from the said duty on 31st December, 2021 and no collections were made during the pandemic. Hence, the petitioner is unable to make payment of the outstanding amount.

We note that the Investigating Officer has not progressed with the investigation in the last one year. There is particularly no progress after the

order of the coordinate Bench on 18th October, 2022. We accordingly hold that custodial interrogation of the petitioner is not required.

We accordingly modify the earlier order and grant anticipatory bail to the petitioner. The petitioner shall make payment of Rs.2 lacs by 31st January, 2023 and a further Rs.2 lacs by 31st March, 2023. The payment shall be made to the Dinhata Municipality and, in the event of default, the authorities shall be at liberty to make appropriate application before the court. The above view is without prejudice to the facts which may emerge in the investigation.

We accordingly direct that in the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties each of like amount to the satisfaction of the Arresting Officer and on condition to comply with the conditions laid down under Section 438(2) of The Code of Criminal Procedure, 1973. The petitioner shall also not interfere with witnesses or tamper with any evidence in any manner whatsoever.

The application for anticipatory bail being CRM(A) 606 of 2022 is allowed and disposed of in terms of the above.

(SIDDHARTHA ROY CHOWDHURY, J.)

(MOUSHUMI BHATTACHARYA, J.)