

09.04.2024

81
S.D./A.D.
Allowed

C.R.M. (A) No. 1155 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Shyampukur Police Station Case No. 60 of 2023 dated 14.07.2023 under Sections 420/406/120B of the Indian Penal Code pending before the learned Additional Chief Metropolitan Magistrate, at Calcutta.

And

In Re : Shyamlal Halder & Ors. petitioners

Mr. Soumyajit Das Mahapatra
Ms. Madhurai Sinha

.....for the petitioners

Mr. Arindam Sen
Ms. Pallavi Priyadarshee

....for the State

1. Petitioners submit that dispute between themselves and the de facto complainant is civil in nature. De facto complainant invested in the petitioners' firm. He also instituted criminal proceeding under Section 138 of the N.I. Act. Institution of the present criminal proceeding is to exert pressure upon the petitioners through threat of arrest. Hence they pray for anticipatory bail.
2. Learned Lawyer for the State submits de facto complainant had invested a sum of Rs.37 lakhs in the petitioners' business. However, the said money was misappropriated.
3. We have considered the materials on record. De facto complainant had invested in the petitioners' business in ordinary course of trade. Investment is in the nature of loan transaction. Mere failure to pay loan by itself does not amount to cheating or criminal breach of trust.

Process of criminal law cannot be utilized for recovery of outstanding dues.

4. Under such circumstances, we are of the opinion custodial interrogation for progress of investigation is not necessary and petitioners may be granted anticipatory bail.
5. Accordingly, we direct that in the event of arrest the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- each, with two sureties of like amount each, to the satisfaction of the arresting officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on condition they shall appear before the jurisdictional Court and pray for regular bail within a period of four weeks from date and on further condition petitioners shall meet Investigating Officer once in a week until further orders.
6. The application for anticipatory bail is, thus, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)