

29.04.2024
Item No.4 & 8
Ct. No. 29
CHC
Allowed

C.R.M.(A) 1474 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Maheshtala** Police Station Case No. **117** of **2024** dated **15.03.2024** under Sections **379/406/420/467/468/500/506** of the Indian Penal Code, pending before Learned Additional Chief Judicial Magistrate at Alipore 24 Parganas (South).

And

In the matter of : Sri Shankar Saraf & anr.
..... petitioners

With

C.R.M.(A) 1483 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Maheshtala** Police Station Case No. **117** of **2024** dated **15.03.2024** under Sections **379/406/420/467/468/500/506** of the Indian Penal Code, pending before Learned Additional Chief Judicial Magistrate at Alipore 24 Parganas (South).

And

In the matter of : Sri Bijay Shankar Tiwari @ Bijay Sankar
Tiwari & anr.
..... petitioners

Mr. Sandipan Ganguly, Sr. Advocate
Mr. Krishnendu Bhattacharya,
Mr. Arik Banerjee,
Mr. Sarangam Chakraborty,
Mr. Priyankar Ganguly,
Mrs. Shalini Bairagi,
Ms. Neelanjana Ghorui
....for the petitioners in CRM(A) 1474/24

Mr. Krishnendu Bhattacharya,
Mr. Arik Banerjee,
Mr. Sarangam Chakraborty,
Mr. Priyankar Ganguly,
Mrs. Shalini Bairagi,
Ms. Neelanjana Ghorui
....for the petitioners in CRM(A) 1483/24

Mr. Antarikhya Basu,
 Mr. Subhasish Datta
for the State in CRM(A) 1474/24

Mrs. Anasuya Sinha, Ld. A.P.P.
 Ms. Madhumita Basak
for the State in CRM(A) 1483/24

Mr. Arindam Jana,
 Mr. Krishnendu Dey
for the de facto complainant
 in CRM(A) 1474/24 and CRM(A) 1483/24

Two applications for anticipatory bail are taken up analogous consideration as they emanate out from same police station.

Learned Senior Advocate appearing for the petitioners submits that, pursuant to commercial contract between the de facto complainant and the company which the petitioners are Directors in C.R.M (A) 1474 of 2024 and employees in C.R.M.(A) 1483 of 2024 became entitled to a sum in excess of Rupees one crore fifty lakhs from the de facto complainant. Two cheques were issued with regard to such payment. Thereafter, such cheques were dishonoured upon presentation. Petitioners received letter from the de facto complainant claiming that, those two cheques were issued as securities. Petitioners applied under Section 138 of the Negotiable Instruments Act, and that, such proceedings are pending. A money suit was filed against the de facto complainant. Thereafter, the police complaint was lodged subsequent to an order passed under Section 156(3) of the Criminal Procedure Code. He submits that, allegations as

against the petitioners are that, they are wrongfully retaining an asset of the de facto complainant.

Learned advocates appearing for the State submit that, despite notices under Section 91 of the Criminal Procedure Code issued upon the de facto complainant to substantiate claim made by it, no response was received by the police.

It is also submitted by the State that, accused did not respond to the notices under Section 161 of the Criminal Procedure Code.

Learned advocate appearing for the de facto complainant refers to the averments made in the application under Section 156(3) of the Criminal Procedure Code.

Petition under Section 156(3) of the Criminal Procedure Code revolves around a commercial contract.

Admittedly, money is due and payable by the de facto complainant to the legal entities of which, the petitioners are Directors and Employees. There are proceedings under Section 138 of the Negotiable Instruments Act pending. There is Money Suit also pending between the private parties.

In such circumstances, we grant anticipatory bail to the petitioners.

Accordingly, we direct that in the event of arrest the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand only) 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 further condition that the petitioners will report before the Investigating Officer as and when called for by the Investigating Officer till the conclusion of investigation and on condition that the petitioners shall appear on every date before the jurisdictional Court on and from the date fixed for appearance of the accused and in default the jurisdictional Court will pass appropriate order to secure the presence of the petitioners in Court including cancelling the anticipatory bail granted without further reference to this Court.

This application for anticipatory bail is, thus, allowed.

CRM(A) 1474 of 2024 and CRM(A) 1483 of 2024 are disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)