

24.06.2024
Court No.29
Item No. 34

Allowed

sg

CRM (A) 1956 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Dumdum Police Station Case No. 41/24 dated 02.02.2024 under Sections 420/406 of the Indian Penal Code, pending before the learned Additional Chief Judicial Magistrate at Barrackpore.

And

In Re: **Tamal Kar**

Petitioner

Mr. Sk. Samiul Haque
Ms. Neha Razvi
Md. Shamimuddin

For the Petitioner

Ms. Subhomay Bhattacharya
Mr. Karan Bapuli

For the State

1. The learned Counsel for the petitioner submits that the petitioner is not named in the FIR and his name, for the first time, appeared in the application filed by the de-facto complainant under Section 156(3) of the Code of Criminal Procedure. It is further submitted that the petitioner is on a better footing than Prasenjit Ganguly and Adil Zia, who have been granted anticipatory bail in CRM(A)/1083/2023 on 3rd July, 2024 and in CRM(A)/1292/2024 on 15th April, 2024 respectively. It is submitted that in any event and in view of the matter, the dispute is essentially civil in nature. In view the fact that the co-accused persons have been enlarged on anticipatory bail, similar reliefs shall be extended to the present petitioner.

2. The learned Counsel for the State contends that the petitioner had made similar false representation to other customers and have referred to the few work orders which were not duly executed. It is further submitted that the office of the company is untraceable.
3. We have considered the materials on record. The dispute relates to non-installation of an elevator in the office of the de-facto complainant. The co-accused person namely, Prasenjit Ganguly has been granted anticipatory bail on consideration of submission made on behalf of the State that he made similar false representation to other customers. There are no fresh materials before us that were not considered by the earlier co-ordinate Bench. In fact, the earlier coordinate Bench has recorded that nothing was placed to show that Prasenjit Ganguly entertained any dishonest intention at the inception of the transaction. The element of cheating has to be established at the trial. In view of the fact that other co-accused persons similarly placed as that of the present petitioner, were granted anticipatory bail, we extend similar benefit to the present petitioner and in view of the nature of acquisition, we are of the opinion that custodial interrogation of the petitioner for the purpose of investigation is not necessary and he has been granted anticipatory bail.
4. Accordingly, we direct that in the event of arrest the petitioner namely, **Tamal Kar**, shall be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of Arresting Officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and on further condition that the petitioner while on bail shall meet the investigating officer once in a week until further orders. The petitioner shall appear before the learned Trial Court within two weeks from date.

5. Accordingly, the prayer for anticipatory bail of the petitioner is allowed.
6. CRM (A) 1956 of 2024 is, thus, disposed of.
7. All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Soumen Sen, J.)

(Uday Kumar, J.)