

04.07.2024

Court No.29

Item No. 33

Allowed

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CRM (A) 2112 of 2024

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Chandrakona Police Station Case No. 360 of 2018 dated 01.12.2018 under Sections 406/409/34 of the Indian Penal Code.

And

In Re: **Alfazuddin Hanif Mallick @ Alfaj Mallick & Ors.**

Petitioners

Mr. Sanjay Banerjee

Mr. Joydeep Bhattacharjee

For the Petitioners

Ms. Faria Hossain

Ms. Sujata Das

For the State

1. Learned counsel for the petitioners submits that the earlier dues towards provident fund amounting to Rs. 7,87,427/- for the period of February 2014 to August 2016 was paid and a certificate was issued on 20th January, 2022 to that effect. However, so far as the present dues are concerned, no proceeding under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 was initiated. The petitioners are willing to comply with any direction towards provident fund. Learned counsel for the petitioner further submits that the petitioners are willing to deposit Rs. 1,89,520/- within a period of two weeks from date to the Provident Fund authority without prejudice to the rights and contentions.
2. Learned counsel for the State submits that admittedly the dues have not been paid towards employees' share from October 2016 to November 2017 as disclosed in the F.I.R lodged by the Enforcement Officer, Employees Provident Fund Organisation, West Bengal.

3. Considering the materials available in the case diary and having regard to the fact that the petitioners have cleared the dues for the earlier period from February 2014 to August 2016 and have convinced to pay the present dues without prejudice to the rights and contentions with the Provident Fund authority and shall approach the Provident Fund authority seeking an adjudication on that and also having regard to the fact that charge-sheet has already been filed, we are of the view that custodial interrogation of the petitioners is not necessary.
4. Accordingly, we direct that in the event of arrest, the petitioners namely, **Alfazuddin Hanif Mallick @ Alfaj Mallick, Sarfaraj Mallick and Asrajuddin Mallick** shall be released on bail upon furnishing a bond of Rs.10,000/- each, with two sureties of like amount each, one of whom must be local, subject to the satisfaction of the Arresting Officer and also to comply with the conditions as laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioners shall appear before the Jurisdictional Magistrate in connection with Chandrakona Police Station Case No. 360 of 2018 within two weeks from date and the petitioners shall not intimidate the witnesses or tamper with evidence in any manner whatsoever. In the event of non-compliance of any of the conditions, the anticipatory bail shall stand automatically cancelled without any further reference to this Court.
5. Accordingly, the prayer for anticipatory bail of the petitioners is allowed and the same is accordingly disposed of.
6. The parties shall communicate this order to the Enforcement Officer, Employees Provident Fund Organisation, West Bengal, regional office at Calcutta.

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)