

30.01.2024
DL-74
Court No.29
(AD)
(Rejected)

C.R.M. (A) 5140 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Rampurhat** Police Station Case No.**536 of 2021** dated **18.11.2021** under Sections **406/420** of the Indian Penal Code, 1860. (G.R. Case No.1635 of 2021).

And

In the matter of: **Sukanta Ghosh**

....petitioner.

Mr. Rajendra Banerjee

... for the petitioner.

Mr. Abhra Mukherjee

Ms. Manisha Sharma

...for the State.

Petitioner obtained government property for work entrusted. Apparently, such work was not executed by the petitioner. Reason for non-execution put forward is manifold. End of the day, petitioner did not execute the work although, received materials from the agency for execution of the work.

No documents are made available to Court to suggest that the materials were returned.

Petitioner contends that, amount in excess of Rs.36 lacs is due and payable by the agency to the petitioner from which the claim of Rs.35 lacs made against the petitioner can be adjusted from such claim.

The claims are yet to be acknowledged by the agency to be due and payable to the petitioner.

In such circumstances, contingent liability, if there be any, of the agency to the petitioner cannot be allowed to be adjusted against the acknowledged liability by the petitioner.

Treating the police complaint as purely civil dispute will be over simplification.

In such circumstances, we are unable to grant anticipatory bail to the petitioner.

Accordingly, the prayer for anticipatory bail of the petitioner is rejected.

C.R.M. (A) 5140 of 2023 is dismissed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)