

13.08.2024.

Item No. 22

Court No.1

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*CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE*

C.R.M. (A) No. 524 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 filed on 15.07.2024 in connection with Siliguri Police Station Case No. 293 of 2024 dated 28.03.2024 under Sections 406/420/120B of the Indian Penal Code (presently, Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023).

And

In the matter of: **Jyoti Jindal & Anr.** ...Petitioners

Mr. Sourav Ganguly,
Mr. Gopal Roy,
Ms. Rishita Chakraborty. ...For the petitioners

Mr. Abhijit Sarkar,
Ms. Sukanya Adhikary.For the State

1. The application for anticipatory bail is pressed on the ground that the principal accused, Pijush Jindal and the person who circulated and misappropriated the money from Bicky Chowdhury have been granted bail by the Court below. The petitioners are the ladies.

2. It appears from the records that the complainant and the accused persons were known to one and another and the latter was trusted with the responsibility of the managing and/or the affairs of the complainant's shop.

3. Counsel for the State objects to the prayer for anticipatory bail of the petitioners.

4. This Court is of the view that notice issued under Section 41A of the Code of Criminal Procedure or the

preliminary enquiry ought to have been conducted by the police since FIR is registered under Sections 406/420 of the Indian Penal Code. The offences arose out of civil transactions.

5. Apart from the above, it appears that the registration of an FIR under Sections 406/420 of the Indian Penal Code, may itself be fatal to the proceedings as the two Sections are mutually exclusive of one another.

6. In view of the above, the prayer for anticipatory bail of the petitioners is allowed.

7. It is directed that in the event of arrest, the petitioners shall be released on bail to the satisfaction of the arresting officer upon furnishing a Bond of Rs.10,000/- each, with two sureties of Rs.5,000/- each, one of whom must be local.

8. This order is subject to the conditions laid down in sub-section (2) of Section 438 of the Code of Criminal Procedure corresponding to Section 482(2) of the BNSS, 2023.

9. The Case Diary be returned.

10. C.R.M. (A) No. 524 of 2024 is, thus, disposed of.

11. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Ajay Kumar Gupta, J.)

(Rajasekhar Mantha, J.)

