

22.08.2024
Court No.1
SL No.17
pk/AP

**HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

CRM(A) 644 of 2024

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Malbazar** P.S. Case No. **753 of 2023** dated **15.09.2023** under Sections **406/420** of the Indian Penal Code.

And

In the matter of: **Binay Shrestha**

....Petitioner.

Mr. Jagriti Mishra,
Ms. Ananya Bhattacharya,
Ms. Mrinmayee Das

...for the petitioner.

Mr. Kallol Acharjee,
Mr. Ujjwal Luksom,
Ms. Namrata Das

...for the State.

1. The application for anticipatory bail is made on the ground that the complaint indicates only a civil dispute for recovery of money.
2. It is further submitted that dues arose about three years seven months prior to the complaint.
3. Be that as it may, a civil dispute may have elements of criminality as well.
4. This Court, however, notes both Sections 406 and 420 have been added to the FIR which are mutually exclusive.
5. The learned counsel for the State opposes the prayer for anticipatory bail and submits that the petitioner has not

complied with notice of 41A of the Cr. P.C. and the co-accused has complied with 41A notice.

6. In the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner.
7. In the event of arrest, the petitioner shall be released on bail upon furnishing a Bond of Rs.20,000/- with two sureties of like amount each, one of whom must be local, 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 conditions that the petitioner shall cooperate with the investigation and meet the I.O. as and when required.
8. In the event the petitioner fails to comply with the aforesaid conditions as enshrined hereinabove, the bail of the petitioner shall automatically stand cancelled without any further reference to this Court.
9. The application for anticipatory bail is, thus, disposed of.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)