

22/04/2025

D/L 34
Ct. No.28
S.Kundu
Allowed

C.R.M.(A) 1240 of 2025

In Re:- An application for anticipatory bail under section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023/under Section 438 of the Code of Criminal Procedure in connection with Bhowanipore Police Station case no. 147 dated 17.5.2022 under Sections 420/408/120B of the IPC.

In the matter of: Dr. Nambiar Raghavan Madhusoodan
... Petitioner

Mr. Pawan Kr. Gupta
Mr. Moti Sagar Tiwari
Ms. Sofia Nesar
Mr. S. Sett

...for the petitioner.

Mr. Sabyasachi Banerjee, Sr. Adv.
Mr. Sandip Agarwal
Mr. Aditya Ray

...for the O.P. No. 2.

Mr. Suman De
Ms. Poulami Bose

...for the State.

1. Copy of a document dated 9.4.2021 as filed on behalf of the de-facto complainant is taken on record.
2. Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is a Director of the company. The company was awarded a tender by a Government company. The petitioner wanted this work to be completed by the de-facto complainant and accordingly engaged them. The petitioner received notice from the Government company about non-completion of work within time. The petitioner, in turn, gave notice to the de-facto complainant to complete the work. As the work was not completed as per schedule, the petitioner terminated the contract with the de-facto complainant on

18.8.2021. In retaliation, the de-facto complainant lodged a complaint before the police on 3.12.2021. Even this complaint was belated one. As No FIR was registered, the de-facto complainant decided to file an application under Section 156(3) of the Code. In spite of recording that the dispute was of civil in nature, the Magistrate directed registration of the present FIR. Several notices were given to the accused under Section 41(A) of the Code. The accused complied with the same. Yet, no certificate was issued about compliance with Section 41(A) of the Code. Therefore, the petitioner apprehends that he may be arrested in connection with the instant case.

3. Learned counsel appearing on behalf of the State relies on the case diary and submits as follows. Although the petitioner attended the investigating Authorities pursuant to notice under Section 41(A) of the Code, he sought time and did not appear thereafter. A document contained in the case diary being a letter written by the petitioner to the Government company shows that substantial portion of the work was completed. Out of total sum of Rs.1.9 Crores that was to be paid to the de-facto for the entire work, only a sum of Rs.45 Lakhs was paid.
4. Learned senior counsel appearing on behalf of the de-facto complainant vehemently opposes the prayer for anticipatory bail. He contends that most of the cases of cheating arise out of commercial transactions. In the

instant case, only a pittance was paid for the work done by the de-facto complainant. The letter dated 9.4.2021 shows that bulk of the work was completed as admitted by the petitioner before the Government company.

5. The letters of the petitioner that are being relied upon both on behalf of the State and the de-facto complainant clearly show that some work was yet to be completed.
6. Be that as it may, considering the nature of allegations and in view of the fact that substantial part payment was made by the petitioner before terminating the contract of the de-facto complainant, I do not think that the custodial interrogation of the petitioner is required in this case.
7. Accordingly, the application for anticipatory bail is allowed.
8. In the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs.50,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the Arresting Officer and also subject to further conditions that the petitioner shall cooperate with the investigation and shall not threaten or intimidate witnesses.
9. Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance with requisite formalities.

(Jay Sengupta, J.)