

30.07.2020

Court No.08
Item No.28
(ALLOWED)

CRM 4956 of 2020
With
CRAN 3186 of 2020
(Through Video Conference)

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In Re:- An application for bail under section 438 of the Code of Criminal Procedure in connection with Ilambazar Police Station Case No. 72 of 2020 dated 01.06.2020 under Sections 448/384/387/34/506/500 of the Indian Penal Code.

And

In the matter of : **Avishek Dutta Roy**

...Petitioner

Mr. Nazir Ahmed.

...For the Petitioner.

Mr. Saibal Bapuli,
Mr. Aniket Mitra.

...For the State.

The learned Advocate on record of the petitioner undertakes to affirm and stamp the petition/application as per the Rules within 48 hours of resumption of the normal functioning of the Court. Subject to such undertaking, the application is taken up for hearing through video conference.

The interlocutory application, being CRAN 3186 of 2020, is thus disposed of.

The petitioner is a reporter, who had published a news article on the online official portal, wherein it has been stated that amidst lockdown some illegal mining of sand had taken place, and few persons of Birbhum District are transporting such sand illegally by truck from the riverbed of Ajay. It is alleged that few persons of the locality using JCB machines were lifting sand illegally from the river bed and transported it to different parts of the State in overloaded trucks. This report has presumably irred by Pervez Alam Siddiqui, who is the complainant in the aforesaid case.

The petitioner in the process of investigation has not been served with notice under Section 41A of the Code of Criminal Procedure thereby indicating that the petitioner's presence is

required for interrogation.

A press reporter is expected to make public aware of any illegal activities in an honest way. In fact, a proper press reporting of any such incidents would assist the administration in taking appropriate measures against the offenders. At this stage we are not concerned with the falsity or truth of what has been published, but considering the report published and the nature of the offence disclosed in the complaint, we feel that there is hardly any necessity of the petitioner to be taken in custody for interrogation.

It is equally expected that what has been stated in the said news report, if it is found to be correct for which we feel a notice under Section 41A of Code should have been issued, then the complainant is liable to be prosecuted. It is a wake up call for all of us in the aftermath of Amphan and pandemic Covid-19 to respect the mother earth and preserve the ecology and environment lest we may face the rage of nature and soon be extinct. It thus mandates prevention of illegal mining, as such cases are frequently noticed.

On such consideration we feel that the petitioner is entitled to anticipatory bail.

Accordingly, we direct that in the event of arrest the petitioner shall be released on bail subject to furnishing a personal bond of Rs.2,000/- (Rupees two thousand) to the satisfaction of the arresting officer and subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure.

The application for anticipatory bail, being CRM 4956 of 2020 and CRAN 3186 of 2020 are allowed.

(Bibek Chaudhuri, J)

(Soumen Sen, J)