

**HIGH COURT OF TRIPURA
AGARTALA**

A.B. No. 85 of 2021

Sri Soumyadip Chakraborty

.....Accused Petitioner(s)

Versus

The State of Tripura

.....Respondent(s)

For Petitioner(s) : Mr. PS Choudhury, Adv.

For Respondent(s) : Mr. R. Datta, P.P.

HON'BLE MR. JUSTICE S.G. CHATTOPADHYAY

Order

22/12/2021

This bail application has been filed by Soumyadip Chakraborty under section 438 Cr.P.C for granting pre arrest bail to him in R.K. Pur PS case No.173 of 2021 which has been registered under section 409 IPC and section 66C IT Act, 2000.

सत्यमेव जयते

[2] Factual background of the case is as under:

Sri Amiya Rn. Roy, postmaster of Radhakishorepur head post office lodged a written FIR with the officer in charge of R.K. Pur police station against the petitioner alleging that the petitioner misappropriated a sum of Rs.11,089/- by manipulating the electronic devices of the said post office.

[3] Based on his FIR, the case was registered and investigation was taken up. Apprehending arrest, petitioner has approached this court seeking pre arrest bail.

[4] It is contended by Mr. PS Choudhury, learned advocate representing the petitioner that petitioner has fallen victim to a conspiracy made by a group of officials of his department. It is also submitted by the counsel of the petitioner that the petitioner deposited a sum of Rs.11,000/- with the post office after it was detected that total amount of postal life insurance premiums collected at the counter of the petitioner fell short of such amount. Counsel submits that petitioner is totally innocent and his detention in custody will spoil his career. Counsel, therefore, urges the court for granting pre arrest bail to the petitioner.

[5] Mr. R. Datta, learned P.P on the other hand opposes the bail application contending that petitioner committed similar offence in the past. Learned P.P produces the case diary and submits that in departmental proceedings held against him he was given minor punishment of 'censure' for the same offence. Learned P.P has also produced the departmental file to establish his contention. It is also submitted by Mr. Datta, learned P.P that another criminal case is pending against the petitioner for the same offence at Belonia. Learned P.P, therefore, contends that in view of such antecedents of him, the petitioner does not deserve anticipatory bail.

[6] In reply, Mr. PS Chodhury, learned counsel submits that in the proceedings referred to by learned P.P, no penalty of 'censure' was imposed on the petitioner. He was only warned. To support his contention, petitioner has filed an additional affidavit, Para 3 of which reads as under:

"That, in reference to the above, the accused petitioner most humbly submits that when he was posted at Belonia Post Office as P.A., there was a complaint against him and subsequently a departmental proceeding was initiated against him and after completion of the said proceeding, the petitioner was exonerated from the charges leveled against him and subsequently he was not punished contrary to which his all salaries and increments alongwith the arrears were released in his favour. By the said order, the Superintendent of Post Office has observed that '*..in exercise of the power conferred by rule 12 of the CCS(CCA) Rules, 1965 having lenient view of the charges leveled against the official doe hereby **Exonerate** but warn and not 'censure' to Soumyadip Chakraborty, the then PA of Belonia SO (not working as PA of Radhakishorepur HO)*';

[7] Perused the record. Considered the submissions of learned counsel representing the parties.

[8] Past antecedent of an accused is a relevant factor to be taken into consideration while considering a bail application under section 438 Cr.P.C. The FIR was lodged by none other than the postmaster of the head post office where the petitioner was an employee. Even though it is submitted on behalf of the petitioner that on the day on which the short credit was detected, the petitioner deposited the entire amount, prosecution has denied the fact.

[9] Perused the statements of the witnesses and all other incriminating materials available in the case diary. The materials available on record prima facie constitute an offence punishable under section 409 IPC. Charge of misappropriation of public fund has been brought against the petitioner who is an employee of the post office. His past antecedents are not also favourable to his case. In view of these facts and

circumstances of the case, this court is of the view that a free and fair investigation of the case is necessary. His release on bail is likely to obstruct the course of such free and fair investigation. Therefore his bail application stands rejected.

[10] In terms of the above, the petition is disposed of. Return the case diary and the departmental file to Mr. R. Datta, learned P.P.

