

HIGH COURT OF TRIPURA
AGARTALA

AB No.63 of 2024

Smt. Pratibha Ghosh Datta, Age-63 years,
W/o- Sri Tapan Datta,
R/o-Boulpasa, Ward No.1,
Kailashahar, Unakoti Tripura,
P.S.-Kailashahar

....Applicant(s)

Versus

The State of Tripura
(To be represented by the Ld. Public Prosecutor, Hon'ble High Court of Tripura)

....Respondent(s)

For the Applicant(s)	:	Mr. P. Roy Barman, Sr. Advocate Mr. K. Nath, Advocate
For Respondent(s)	:	Mr. Raju Datta, PP Mr. Rajib Saha, Addl. PP Mr. Prabir Saha, Advocate

HON'BLE MR. JUSTICE ARINDAM LODH
Order

09/12/2024

This is an application filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, for granting of anticipatory bail in favour of the applicant, Smt. Pratibha Ghosh Datta who is under serious apprehension of arrest in connection with Kailashahar P.S. Case No.2024 KLS 110 dated 17.11.2024 for allegedly committing offence under Section 420 of IPC.

Briefly stated, one Mampi Deb has lodged a written complaint with the Officer in-charge of the Kailashahar Police Station stating inter alia that the applicant had entered into an agreement for sale of the land measuring 0.50 Sahasragsha in favour of the complainant within a period of 6(six) months. At the time of agreement, Smt. Mampi Deb had paid Rs.12,80,000/- as advance out of the total consideration money of Rs.31,20,000/-. One of the terms and conditions of the sale agreement was that the applicant would execute the sale deed in favour of the complainant within a period of 6(six) months. It was further alleged that the title deed of the land under sale agreement was kept mortgaged with the State Bank of India (for short, SBI), Kailashahar Branch. The complainant applied for loan from the Bank for sanctioning a sum of Rs.18,40,000/- and desired to create security with the

title deed which was already under mortgage with the Bank. The Bank also sanctioned the said loan and disbursed the amount in the account of Smt. Pratibha Ghosh Datta, the land owner. Thereafter, the Bank account of Smt. Pratibha Ghosh Datta was freezed. Thereafter, the complainant and her husband, Sri Sumen Das was constantly pressurizing the applicant to register the sale deed in favour of them, but, the applicant could not execute and register the sale deed since the title deed of the land has been kept under mortgage with the Bank as security. It is pertinent to mention herein that Smt. Mampi Deb, the complainant has also requested the Bank to create security by way of mortgage against the title deed no.1-00101 and 1-00102, dated 25.05.2018.

On the basis of the aforesaid facts, I have heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. K. Nath, learned counsel appearing for the applicant. Also heard Mr. Raju Datta, learned P.P. assisted by Mr. Rajib Saha, learned Addl. P.P. appearing for the State-respondents and Mr. Prabir Saha, learned counsel appearing for the State Bank of India.

The applicant, Smt. Pratibha Ghosh Datta, the complainant Smt. Mampi Deb and her husband Sri Sumen Das have appeared before this Court personally today. Mr. Kundan Subha, Chief Manager of SBI, Kailashahar Branch is also present before this Court in-person.

Mr. Roy Barman, learned senior counsel has submitted that the applicant was all along willing to execute the sale deed in favour of the complainant, but, since the title deed of the land was kept as mortgage to create security of the loan which was disbursed in favour of Smt. Mampi Deb, she could not execute the sale deed. Learned senior counsel has further contended that on receipt of the title deed, as stated above, the applicant undertakes to execute and register the sale deed in favour of Smt. Mampi Deb and her husband Sri Sumen Das.

I have also taken note of the letter dated 23.07.2024 written by the Chief Manager, SBI, Kailashahar Branch, addressed to the applicant Smt. Pratibha Ghosh Datta, wherefrom I find that on the basis of an application made by Smt. Mampi Deb and Sri Sumen Das, the title deed was kept mortgage to create security for the loan disbursed in favour of Smt. Mampi Deb and Sri Sumen Das.

I have interacted with the Chief Manager, SBI, Kailashahar Branch and put a specific question to him under which law the title deed has been kept under mortgage, and security was created in favour of one person, who even has not acquired title of the land under the sale agreement. The Chief Manager has replied that this is the practice of the Bank, which explanation, according to this Court, is not at all satisfactory because it is not supported by any law of the land. This action of the Bank cannot be supported in any manner whatsoever when the specific case of the applicant is that Mr. Subha has connived with the complainant and her husband. Another interesting feature is that, the complainant and her husband were well aware of the fact that the entire money was liquidated and on their application the mortgage of the title deed was kept as security. Knowingly well about this fact, they lodged complaint in the police station against Smt. Pratibha Ghosh Datta compelling her to approach this Court with an application for granting anticipatory bail.

Needless to say, unless and until the Bank releases the title deed in favour of the title holder of the land, then, how sale deed would be executed in favour of the purchaser.

I have also taken note of the communications including the advocate's notice which Smt. Mampi Deb and her husband had made with Smt. Pratibha Ghosh Datta repeatedly demanding execution and registration of the sale deed in their favour knowingly well that mortgage was created by the Bank against the title deed at their instance. This is a serious kind of harassment inflicted upon the applicant. The applicant naturally has become helpless since she has not received the title deed enabling her to transfer the said land in favour of the complainant and her husband.

Considering the facts and circumstances of the matter in its entirety, I am inclined to take a serious view of the matter.

Firstly, the Bank has committed serious fault for which the Chief Manager is liable to pay compensation. Sri Kundan Subha, Chief Manager of SBI, Kailashahar is solely responsible, and thus, he is personally liable to pay compensation to Smti. Pratibha Ghosh Datta without affecting the bank's exchequer. Accordingly, Mr. Subha shall pay a sum of Rs.25,000/- to the applicant, Smt. Pratibha Ghosh Datta by 12:30 p.m tomorrow(10.12.2024) as compensation. It is made clear that the bank shall

have no liability for the said amount of compensation. It is further directed that the Bank will defreeze and regularize the account which was lying in the name of Smt. Pratibha Ghosh Datta by tomorrow(10.12.2024).

Now, coming to the action of Smt. Mampi Deb and her husband Sri Sumen Das, I find that they have intentionally and willfully harassed the applicant knowingly well that they themselves created mortgage against the title deed which is still in the name of Smt. Pratibha Ghosh Datta. In spite of that they made several correspondences pressurizing Smt. Pratibha Ghosh Datta to execute the sale deed and ultimately lodged F.I.R. against her. This cannot be tolerated in the civilized society. As such, they both are liable to pay compensation to Smt. Pratibha Ghosh Datta. The compensation has been determined at Rs.50,000/- to be jointly paid to Smt. Pratibha Ghosh Datta by tomorrow 4:30 p.m. The Bank is directed to release the title deed no.1-00101 and 1-00102 dated 25.05.2018 in favour of Smt. Pratibha Ghosh Datta by 12:30 p.m. tomorrow(10.12.2024) or as and when she would approach to the bank.

The applicant on receipt of the title deed shall execute the sale deed in favour of Smt. Mampi Deb and Sri Sumen Das within a period of 2(two) weeks from today.

The Sub-Registrar, Kailashahar is directed to arrange for execution and registration of the sale deed within a period of 2(two) weeks.

It is made clear that after execution and registration of the sale deed, the original title deed in the name of the applicant Smt. Pratibha Ghosh Datta, shall be handed over to the complainant Smt. Mampi Deb and Sri Sumen Das. Smt. Pratibha Ghosh Datta, undertakes that she will execute and register the sale deed in favour of Smt. Mampi Deb and Sri Sumen Das within the time as specified by this Court.

It is further mutually admitted that after execution and registration of the sale deed, the complainant Smt. Mampi Deb and her husband shall approach the Officer in-charge of the Kailashahar Police Station for withdrawal of the complaint.

Further after completion of the registration of the sale deed, Smt. Mampi Deb and Sri Sumen Das shall submit the sale deed to the Bank against the loan amount of Rs.18,40,000/- as security by way of mortgage which they already borrowed from the Bank.

Smt. Mampi Deb and her husband has submitted before this Court that they will submit the sale deed to the Bank for creation of mortgage against the loan amount they already borrowed from the Bank.

Further, it is ordered that in the event of arrest, the applicant, Smt. Pratibha Ghosh Datta, shall be released on bail by furnishing a bond of Rs. 25,000/- with one surety of the like amount to the satisfaction of arresting authority.

With the above observations and directions, the instant anticipatory bail application stands allowed and disposed.

JUDGE

Snigdha

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KAR

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by SAIKAT KAR
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