

November 05, 2020

srn/ARDR

(Serial No. 42)

Allowed

**CRM 6788 of 2020
(Via Video Conference)**

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Uttarpara Police Station case no. 184 of 2020 dated 06/07/2020 under Sections 420/406/409/461/469/464/441/442/448/120B/34 of the Indian Penal Code.

In Re : Sri Prabhu Dayal Barwaria & anr.,

... petitioners.

Mr. Sandipan Ganguly,

Mr. Sanjib Mitra,

.....for the petitioners

Mr. Sudip Ghosh Chowdhury,

...for the de facto complainant.

Mr. Sudip Ghosh,

Mr. Bitasok Banerjee,

....for the State.

The petitioners claim to be the purchasers of a piece of land. According to the petitioners, the original owner, Mira Das Roy, completed the transaction in favour of a company of which the first petitioner is the director and the second petitioner an employee. Such transaction is said to have been completed in the year 2008.

The petitioners claim that the transferor was a resident of Durg and she executed a registered power of attorney and it was her attorney who executed the conveyance in favour of the petitioners' company.

The petitioners say that the de facto complainant has filed a civil suit, claiming as a licensee under Mira Das Roy and denying the sale of the land by Mira Das Roy in favour of the petitioners' company. The criminal complaint has been lodged

on the ground of the petitioners having forged and fabricated documents to claim title to the land in question.

The dispute appears to be civil in nature and pertaining to the land in question. According to the petitioners, the de facto complainant enjoys an interlocutory order of injunction.

In such view of the matter, particularly when there is a civil suit which is pending in respect of the land in question, the lodging of the criminal complaint may have been unnecessary, and at any rate, the petitioners are not required to be arrested immediately. However, the original title-deeds that the petitioners rely on must be produced before the relevant civil court where the suit has been instituted by the de facto complainant for such court to take appropriate steps to ascertain the veracity of the title-deeds. Such exercise of making over the documents to the relevant court should be completed within four weeks from date.

In the event of arrest, the petitioners will be enlarged on bail on furnishing security of Rs.10,000/- (Rupees Ten thousand only) each with two sureties of like amount, one of whom must be local, to the satisfaction of the arresting officer. The petitioners must comply with the conditions laid down under Section 438(2) of the Code.

It is made clear that if the relevant title-deeds are not presented before the appropriate civil Court within the time indicated herein, the bail will stand automatically cancelled

without reference to any Court and the petitioners will be liable to be taken into custody in accordance with law.

It is also made clear that the title-deeds referred to above would mean the power of attorney allegedly executed by Mira Das Roy in respect of the transaction of 2008, the purported agreement for sale and the connected deed of conveyance.

CRM 6788 of 2020 is disposed of.

(Arijit Banerjee, J.)

(Sanjib Banerjee, J.)