

24.11.2020
SL No.7
Court No.12
(gc)
(antibail allowed)

CRM 7906 of 2020

(Via Video Conference)

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Special Case No.25/2016**, arising out of the **S.I.s S.L. No.24/15-16** dated **15.01.2016** under **Section 18(c)** of NDPS Act.

And

In the matter of: **Gunadhar Mandal.**

....Petitioner.

Ms. Sonali Saha

...for the Petitioner.

Mr. Rana Mukherjee, Ld. A.P.P.,
Ms. Sujata Das,

...for the State.

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

The learned Counsel for the petitioner submits that the land of the petitioner was sold in the year 1978 and 1990 and a co-accused similarly placed was granted anticipatory bail by a Coordinate Bench on 9th September, 2020.

The learned Counsel for the State, however, opposes the prayer for anticipatory bail and submits that although bail was granted to Sailesh Mondal but a Coordinate Bench on 19th August, 2020 declined anticipatory bail to the petitioner. It is submitted that there is no change in circumstances for which the order of rejection passed earlier needs to be revisited.

It appears from the orders produced before us that the State was represented by a different set of advocate in Sailesh

Mondal and on the basis of the submission made on behalf of the State that the petitioner's land was sold in the year 1978 and 1990 bail was granted to Sailesh Mondal. This fact may not have been brought to the attention of the Hon'ble Division Bench that had rejected the earlier application for anticipatory bail of Gunadhar Mondal. Gunadhar Mondal is the brother of Sailesh Mondal. We find from the order dated 19th August, 2020 that Mr. Rana Mukherjee, learned Counsel who is representing the State in this matter appears to have fairly contended before the said Division Bench presided over by Justice Sahidullah Munshi that the land of the petitioner was sold out in the year 1978 and 1990.

Having regard to the fact that the petitioner, prima facie, is not the owner of the property in question and there are documents to suggest that the land of the present petitioner and Sailesh Mondal was sold in the year 1978 and 1990, we are inclined to allow this anticipatory bail to the petitioner on the same terms and conditions as was granted to Sailesh Mondal. We also record that there is no dispute that Sailesh Mondal stands on the same footing as that of Gunadhar Mondal. They were the joint/co-owner of the property in question.

In the event of arrest the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- (rupees ten thousand) with two sureties of Rs.5000/- each subject to the satisfaction of the arresting officer on condition that the petitioner shall not tamper with the evidence and intimidate any of the witnesses as laid down under Section 438(2) of the Cr.P.C., 1973. It is also

directed that the petitioner shall meet the Investigating Officer of the case once a week until further order.

Accordingly, the application for anticipatory bail being CRM 7906 of 2020 is allowed.

All parties are to act on a website copy of this order on the usual undertaking.

(Saugata Bhattacharyya, J.)

(Soumen Sen, J.)