

CRM 716 of 2020
with
FMA 915 of 2020
with
IA NO. CAN 1 of 2020

(via Video Conference)

The application for anticipatory bail (CRM 716 of 2020) along with FMA 913 of 2020 along with the connected application being CAN 10385 of 2019 have been assigned to the Bench presided over by one of us (Soumen Sen, J.) by the order of the Hon'ble the Chief Justice on 10th March, 2021.

The application for anticipatory bail as well as the appeal and the connected application are listed before us today in terms of the aforesaid direction.

By consent of the parties the application for anticipatory bail being CRM 716 of 2020 is taken up for consideration in presence of the learned advocates for the parties.

Re: CRM 716 of 2020
(Application for anticipatory bail)

In the matter of : **Sairani Bibi @ Saibani Bibi**
..... petitioner

Mr. Somnath Banerjee
Mr. Pronojit Roy

....For the petitioner

Mr. Madhusudan Sur, Ld. Addl. P.P.
Mr. Dipankar Paramanick

.....For the State

Mr. Amal Kumar Banerjee

.....For the Rampurhat Municipality

The applicant claims to be a house-wife. It is alleged that a false case has been instituted against the appellant on 20th December, 2019 under Sections 193/197/198/199/ 468/ 471/ 420 of the Indian Penal Code on the ground that the petitioner and others have produced false certificates along with the affidavit in the Hon'ble High Court regarding illegal construction in the ward on the vested land.

It is submitted that one Sajal Sk. Filed a writ petition for a direction upon the Chairman, Rampurhat Municipality, Rampurhat, District – Birbhum to take steps for demolition of unauthorized construction being carried out by Sairani Bibi @ Saibani Bibi, wife of Azizul Islam @ Kochi Sk., son of Late Sish Mohammad and Saharukh Sk. and Sagar Sk., both sons of Azizul Sk.

It was alleged before the learned single Judge that no steps have been taken by the municipality to demolish the unauthorized construction made by the aforementioned persons. The learned single Judge on considering all the materials on record restrained the aforesaid persons from carrying on any construction and/or further construction at the premises in question. Rampurhat Municipality was given liberty to execute the order with police help if required.

This order was challenged by the aforesaid persons in MAT 1559 of 2019, now re-numbered as FMA 915 of 2020.

In this application for anticipatory bail, the petitioner alleged that the Chairman, Rampurhat Municipality on 5th December,

2019 admitted that the mother-in-law of the present applicant was living in the said house for the last 40 years and they were not making any construction.

On the basis of an F.I.R. lodged by the Chairman, Rampurhat Municipality on 20th December, 2019, the ASI of the concerned police station directed the present applicant to produce paper by which she had been given the permission to repair the house as per the order dated 5th February, 2019. The petitioner alleged that the petitioner is completely innocent and she has been falsely implicated in this case.

The learned counsel for the State, however, opposes the prayer for anticipatory bail. It is submitted that the accused has forged the letter head of the Rampurhat Municipality and the letter dated 4th February, 2019 is a fabricated document on the basis of which a F.I.R. has been lodged. The accused is absconding.

Considering the nature of the dispute and the nature and extent of complicity of the petitioner in the commission of the alleged offence as well as taking into consideration that the charge-sheet has been filed in February, 2020 by the police, custodial interrogation at this stage may not be necessary and the accused may be enlarged on anticipatory bail subject to certain stringent conditions.

Accordingly, we direct that in the event of arrest the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of like amount each to the satisfaction of the ACJM, Rampurhat and also subject to the

conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on conditions that the petitioner shall not leave the jurisdiction of the Rampurhat Police Station, Rampurhat without the leave of the Court except for the purpose of attending the Court proceeding and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever and on further condition that if the petitioner is in possession of passport the same shall be deposited with the Officer-in-Charge of Rampurhat Police Station otherwise she shall submit an affidavit stating that she does not have any passport within 2 weeks from date.

The application for anticipatory bail is, thus, allowed.

(Saugata Bhattacharyya, J.)

(Soumen Sen, J.)