

12.03.2021

CRM 11075 of 2020

Court No.02
Item No.157
(ALLOWED)

akd

In Re:- An application for bail under section 438 of the Code of Criminal Procedure filed on 18.12.2020 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.

And

In the matter of : **Mita Das.**

...Petitioner.

**Mr. Dipanjan Dutt,
Ms. Trini Joarder.**

...For the Petitioner.

**Mr. Madhusudan Sur,
Mr. Dipankar Paramanick.**

...For the State.

Mr. Sudip Ghosh Chowdhury.

...For the de facto complainant.

Apprehending arrest in connection with Uttarpara Police Station Case No. 184 of 2020 under Sections 420 / 406 / 409 / 461 / 469 / 464 / 441 / 442 / 448 / 120B / 34 of the Indian Penal Code, the petitioner has filed the instant application for anticipatory bail under Section 438 of the Code of Criminal Procedure.

It is submitted by the learned Advocate for the petitioner that the petitioner is the daughter of the original owner of the property and has been implicated by her maternal uncle, who was inducted by the said mother as a licensee in respect of the property, alleging the commission of offence under the aforesaid provisions indicated hereinabove. The other co-accused in whose favour the sale deed was executed on the strength of the power of attorney allegedly executed and registered by the mother in favour of one Sachin Kumar Agarwala, have been granted anticipatory bail.

The learned Advocate for the State opposes the prayer for anticipatory bail and submits that the de facto complainant has disclosed in the complaint that the power of attorney was never executed by the said owner and the alleged power of attorney was, in fact, executed after the death of the mother and, therefore, serious allegation of fraud and offences have been committed. He further submits that the investigation is still in progress.

The learned Advocate for the de facto complainant intervenes and submits that the power of attorney was registered in his favour and alleged power of attorney so unregistered does not carry any weight there. The divestation of property in such manner attracts the offences under the aforesaid provisions and, therefore, the petitioner though a daughter of the original owner is not entitled to any privilege of pre arrest.

It is no doubt true that the petitioner and the de facto complainant are related to each other. The de facto complainant is a maternal uncle of the petitioner the complaint has been lodged which resulted into registration of first information report against the petitioner alleging that she was an instrumental behind the aforesaid offences.

The said original owner left behind her surviving not only the petitioner but the other four children, who have not come forward and challenge the transaction in relation to the property.

We are however informed that a civil suit is pending. The maternal uncle does not come within the purview of heirs under Section 15 of the Hindu Succession Act. The nature of allegations does not instill us that the custodial interrogation of the petitioner is required.

We thus allow the application for anticipatory bail.

In the event of arrest the petitioner shall be released on bail on furnishing a bond of Rs.10,000/- with two sureties of like amount, one of whom must be local, to the satisfaction of the arresting officer of the concerned police station with condition that the petitioner shall make herself available personally before the Investigating Officer of the concerned police station as and when called for. Apart from the same the other conditions enshrined under Section 438(2) of the Code of Criminal Procedure shall also apply.

The application for anticipatory bail, being CRM 11075 of 2020, is thus **allowed**.

(Harish Tandon, J)

(Kausik Chanda, J.)

