

27.01.2022

Serial no. 12

Srimanta

Ct. No. 42

(Through Video Conference)
CRM (SB) 16 of 2022

In re : An application for bail under Section **439** of the Code of Criminal Procedure, 1973 in connection with **Labpur** Police Station Case No. **116** of **2020** dated **08.09.2020** under Sections **420/468/469/471** of the Indian Penal Code, 1860 and Sections **81/82** of the Indian Registration Act, 1908 corresponding G.R. No. **671** of **2020**.

And-

In the matter of : **Jahanura Bibi**

... **Petitioner.**

Mr. Tapas Kumar Ghosh, Adv.,
Mr. Tanmay Chowdhury, Adv.

...for the Petitioner.

Mr. Swapan Banerjee, Adv.,
Mrs. Purnima Ghosh, Adv.

...for the State.

Mr. Manas Kumar Das, Adv.

...for the de facto complainant.

The petitioner, a lady of about 66 years, suffering from various ailments is in custody on connection with G.R. Case No. 671 of 2020 for about 71 days.

The learned advocate for the petitioner submits that out of five accused persons, two accused, namely, Sk. Bodiujjman and Md. Anowar Hossain were granted anticipatory bail by the Division Bench of this Court. Other two persons were granted bail under Section 437 of the Code of Criminal Procedure by the Trial Court. Petitioner's prayer for anticipatory bail was rejected by a Division Bench of this Court on the following two grounds:-

"Considering the materials in the Case Diary and considering the fact that the petitioner is the beneficiary of a deed of gift which is claimed to be forged and considering the fact that the deed of gift is yet to be seized by the Investigating

Authority, we are not inclined to grant anticipatory bail to the petitioner”.

Earlier the Division Bench while granting anticipatory bail to other two accused persons held that the dispute between the parties is essentially civil in nature. It is pertinent to mention here that the dispute between the parties pertain to the ownership of certain amount in question. The *de facto* complainant is claiming ownership over the property by virtue of a registered deed of gift of 2008, while the petitioner is claiming ownership over the property by virtue of a deed of gift which was executed at a point earlier to 2008. The complainant is claiming that the said deed of gift is forged and concocted. Over the said issue civil suits are pending between the parties.

The instant Police Station case was registered with the allegation of commission of cheating, forgery, creation of false document, using false document as genuine etc. by the *de facto* complainant.

The learned advocate for the petitioner has prayed for her bail on the ground that the petitioner is a lady and she is entitled to special protection against arrest. Secondly, she is aged about 66 years and thirdly, she is suffering from various ailments. It is apparent from the record that after rejection of the prayer for bail of the petitioner, she was directly admitted to Suri Sadar Hospital for her medical treatment.

Learned advocate for the *de facto* complainant, on the other hand, submits that the petitioner has suppressed the original deed of gift and even the police authority could not seize the said deed of gift during investigation.

Having heard the learned counsels and in view of the fact that charge-sheet has already been submitted, this Court is inclined to release the petitioner on bail of Rs.10,000/- with one surety of like amount to the satisfaction of the learned A.C.J.M., Bolpur with further condition that she will produce a photostat copy of the deed of gift in question in the Trial Court with the bail bond. The Investigating Officer of this Court can collect the

photostat copy of the deed in question and further ascertain the authenticity of the said deed and submit a supplementary report within one month from the date of communication of this order.

If the petitioner violates any of the above conditions, her prayer for bail shall be rejected without further reference to this Court.

(Bibek Chaudhuri, J.)