

10.06.2022
Item No.05
Suman
Ct.42

(Via Video Conference)

CRM (SB) 113 of 2022

In Re: An application under Section 439 of the Code of Criminal Procedure in connection with Criminal Misc. Case No.1901 of 2022 arising out of Alipore Police Station Case No.112 of 2020 dated 21st August, 2020 under Sections 120(B)/420/506 of the Indian Penal Code.

And

In the matter of: **Manoj Gorain**
 Vs.
 The State of West Bengal

Mr. Shibaji Kumar Das
Ms. Rupsa Sreemani
...for the petitioner

Mr. S. S. Imam
Mr. S. Kundu
...for the State

On the basis of a petition under Section 156 (3) of the Code of Criminal Procedure filed by one Tanmoy Shaw (hereinafter described as the de facto complainant) Alipore Police Station Case No.112 of 2020 under Sections 120B/420/506 of the Indian Penal Code was registered. In the said case the petitioner was arrested on 9th April, 2022. He filed an application for bail before the learned Sessions Judge at Alipore on 5th May, 2022. The prayer for bail was rejected by the

learned Sessions Judge. Subsequent to rejection of the said application for bail the instant application has been filed by the petitioner.

It appears from the F.I.R. that the de facto complainant was approached by the accused persons to purchase some property situated at Bokaro at a consideration amount of Rs.41,38,225/-. Such agreement was executed at the residence of the de facto complainant within the jurisdiction of Alipore P.S. On the very date of execution of such agreement the de facto complainant paid entire consideration money to the accused persons on promise that the accused persons would execute deed of conveyance in favour of the petitioner. However, the accused persons failed and neglected to execute the deed of conveyance and misappropriated such huge amount of money from the petitioner. So, is the complaint.

During investigation the petitioner being the son of one Prasad Ram Gorain was arrested on 9th April, 2022. It is submitted by the learned advocate for the petitioner on production of a registered general power of attorney dated 30th July, 2018 that Prasad Ram Gorain, father of the present petitioner, executed a general power of attorney in favour of the de facto complainant in respect of land in question. In the power of attorney amongst other powers, the de facto

complainant was given authority to sign, execute and present any document or documents before the registering authority for registration of sale deed or any document duly executed by the said power of attorney on behalf of the owner of the land and to admit execution thereof. It is submitted by the learned advocate for the petitioner that the allegation made by the de facto complainant regarding payment of consideration price at Kolkata is absolutely a false statement because on that date the original owner of land executed and registered a power of attorney at Bokaro. Thus, it is presumed that the de facto complainant was present at Bokaro and put his signature at the time of execution of power of attorney.

It is further pointed out by the learned advocate for the petitioner that on the strength of the said power of attorney the de facto complainant started selling land in question to third parties demarcating the land and received the consideration amount. He had not paid any consideration price to the owner of the land, namely Prasad Ram Gorain.

Execution of power of attorney was executed by and between Prasad Ram Gorain and the de facto complainant. Entire transaction was between the de facto complainant and Prasad Ram Gorain. I do not find any role of the present petitioner in the entire

transaction. The learned Sessions Judge rejected the prayer for bail on the ground that a sum of Rs.41 lakhs is involved in the instant case. However, the de facto complainant could not produce any document to show that a sum of Rs.41 lakhs was actually paid to Prasad Ram Gorain. There is no material in the case diary.

In view of such circumstances, I am inclined to grant bail to the petitioner considering the fact that he is in custody for about 60 days.

The petitioner is enlarged on bail of Rs.10,000/- with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Alipore on condition that he must meet the Investigating Officer once in a month during the investigation of the case. If he violates the above mentioned condition, the order of bail granted in favour of him shall be cancelled without further reference to this Bench.

Case diary be returned.

The application is, thus, disposed of.

(Bibek Chaudhuri, J.)