

25.07.2022

Serial no. 14

[Dd]

(Anticipatory bail)

(Rejected)

CRM (A) 3392 of 2022

In re : An Application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure in connection with **Belur** Police Station Case No. **154** of **2022** dated **07.07.2022** under Sections **420/406/467/468/471/472/34/506** of the Indian Penal Code.

-And-

In the matter of : **Sri Milan Roy Chowdhury & Anr.**
... ..**Petitioners**

Mr. Soumik Ganguly, Advocate
... .. For the Petitioners

Mr. Sudip Ghosh,
Mr. Bitasok Banerjee, Advocate
... ...For the State

Mr. Debasis Mitra,
Mr. Dupak Ganguly, Advocates
.. ...For the de facto complainant

Memo of evidence submitted in court be taken on record.

Petitioners pray for anticipatory bail.

Learned advocate appearing for the petitioners submits that the petitioners were falsely implicated. The petitioners did not execute the so-called deed in respect of which the police complaint was filed. He refers to the civil suit being Title Suit no. 954 of 2022, which the petitioners filed as against the de facto complainant and another person claiming ownership in respect of an immovable property. He submits that there subsists an order of

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injunction passed by the learned Civil Judge on July 11, 2022.

Learned advocate appearing for the State draws the attention of the Court to the materials in the case diary. He submits that the police on investigation came to learn that, so-called registered deed which the petitioners executed in favour of the de facto complainant was not registered with the Registering Authority at all. He submits that there was a relationship of employer and labour contractor between the petitioners and the de facto complainant with the petitioners being the employer and the de facto complainant being the labour contractor. An amount in excess of Rs.40 lakhs was due and payable by the petitioners to the de facto complainant. In lieu of payment of such dues, the petitioners ostensibly registered the immovable property in favour of the de facto complainant through the disputed deed. On investigations, as pointed out, the disputed deed was found not to be registered with the Registering Authority at all. The property was standing in the name of Milan Roy Chowdhury who is the father of the petitioner no. 2. The petitioner no.2 joined in the execution of the deed as will appear from the photostat copies of the document. He submits that there is a requirement of custodial interrogation of the petitioners.

The de facto complainant is represented.

In reply, learned advocate appearing for the petitioners submits that the claim of dues with regard to alleged employer labour contractor relationship is not stated in the disputed document. It is contended on behalf of the petitioners that prior to deed that the de facto complainant executed the de facto complainant received consideration from third party.

Apparently, there was a previous relationship between the petitioners and the de facto complainant. Apparently, in order to overcome the financial liability that

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the petitioners owed to the de facto complainant they sought to transfer an immovable property through a registered deed in favour of the de facto complainant. On the strength of such document, the de facto complainant took further steps.

The contention with regard to the subsequent document as advanced on behalf of the petitioners only establishes the fact that there was a relationship between the petitioners and the de facto complainant and that the de facto complainant was made to understand by the petitioners that the de facto complainant transferred the right, title and interest in favour of the de facto complainant in respect of the immovable property concerned.

The civil suit spoken of on behalf of the petitioners is subsequent to the lodgment of the first information report.

There are materials in the case diary implicating the petitioners and making out a case for custodial interrogation of the petitioners.

In such circumstances, we are not inclined to grant anticipatory bail to the petitioners.

Prayer for anticipatory bail of the petitioners is **rejected**.

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(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)