

**25.01.2022**

**Serial no. 04**

Dd

**(Through Video Conference)**

**CRM 7725 of 2021**

In re : An Application for **anticipatory bail** under Section **438** of the Code of Criminal Procedure in connection with **Posta** Police Station Case No. **175** dated **09.10.2020** under Sections **120B/455/506/323/354** of the Indian Penal Code read with Section **25(1B)/27(1)** of the Arms Act, 1959.

**-And-**

In the matter of : **Meena Agarwal**

**... Petitioner**

Mr. Siddarth Luthra, Sr. Advocate  
Mr. Debasish Roy,  
Mr. Sabyasachi Banerjee,  
Mr. Rudraman Bhattacharya,  
Mr. Nigam Ashish Chakraborty,  
Ms. Suchismita Ghosh Chatterjee,  
Ms. Sheezan Hashmi,  
Mr. Karan Dudhewala,  
Ms. Agniva Banerjee, Advocates  
... ... For the Petitioner

Mr. Saurav Chatterjee,  
Mr. Sauvik Due, Advocates  
... ...For the De facto complainant

Mr. Saswata Gopal Mukherjee, Ld. PP  
Mr. Ranabir Roy Chowdhury,  
Mr. Rudradipta Nandy, Advocates  
... ...For the State

Petitioner seeks anticipatory bail.

Learned senior advocate appearing for the petitioner submits that the petitioner was falsely implicated. The police complaint is a result of a dispute relating to the estate of a deceased. There are probate proceedings pending.

State and the de facto complainant are represented.

Learned advocate appearing for the State draws the attention of the Court to the contents in the case diary.

Learned advocate appearing for the de facto complainant raises the issue of maintainability of the application for anticipatory bail. He submits that the petitioner initially filed a put up petition before the Learned Judicial Magistrate which was not pressed on September 2, 2021. According to him, the petitioner could not leave the Court of the learned Magistrate without a specific order to such effect being passed by the learned Magistrate. The petitioner, thereafter, moved the Sessions Court where the order dated October 8, 2021 was passed rejecting the application for anticipatory bail. In view of such conduct of the petitioner the present application is not maintainable.

In reply, learned advocate appearing for the petitioner submits that the petitioner never surrendered before the Learned Magistrate. The petitioner filed a put up petition for the purpose of placing the records before the Learned Magistrate. The petitioner did not press such application on September 2, 2021 which was recorded in such order. Moreover, such conduct of the petitioner is recorded in the order dated October 8, 2021 by the Learned Sessions Court.

So far as the maintainability of the petition is concerned, we find that the petitioner filed a put up petition for the purpose of placing the records before the learned Magistrate. Such put up petition was not pressed on September 2, 2021. Such conduct of the petitioner cannot be construed to mean that the petitioner surrendered before the Learned Magistrate and that the petitioner was in judicial custody of by virtue of the petitioner filing a put up petition, as sought to be contended on behalf of the de facto complainant. Rejection of an application for anticipatory bail by the Sessions Court does not present the petitioner approaching the High Court with the same prayer.

So far as the question of grant of anticipatory bail is concerned, we find that there is a probate proceeding

pending in respect of the will of a deceased. The likelihood of the present criminal complainant being the result of the dispute relating to the estate of the deceased cannot be ruled out in its entity.

In such circumstances, we are inclined to grant anticipatory bail to the petitioner.

Accordingly, we direct that in the event of arrest the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand Only), with two sureties of like amount each, to the satisfaction of the arresting officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioner shall appear before the Court below and pray for regular bail within a period of four weeks from date and on further condition that petitioner shall cooperate with the investigation.

Prayer for anticipatory bail is **allowed**.

CRM 7725 of 2021 is **disposed of**.

**(Debangsu Basak, J.)**

**(Bibhas Ranjan De, J.)**