

19.12.2022

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Ct. No. 29

**KAUSHIK
REJECTED**

C.R.M.(A) 5867 of 2022

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Jaipur** Police Station Case No. **143** of **2022** dated **06.09.2022** under Sections 403/420/406/379/34 of the Indian Penal Code, 1860.

And

In Re : Sri Ashish Dutta & Anr.

..... petitioners

Mr. Raghunath Adhikary

Ms. Tanya Banerjee

Ms. Divya Kar

....for the petitioners

Mr. Abhishek Banerjee

Ms. Parna Roychowdhury

....for the de-facto complainant

Mr. Navanil De

....for the State

Petitioners pray for anticipatory bail.

Learned advocate appearing for the de-facto complainant submits that, the petitioners obtained loan from the bank. Petitioners mortgaged the immovable property to the bank as a security. Bank initiated proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act, 2002) against the defaulter and obtained possession pursuant to the order passed by the District Magistrate under the Act of 2002. The bank was subsequently dispossessed.

Apparently, the petitioners are instrumental in dispossessing the secured creditor. There are other materials in

the case diary implicating the petitioners. Petitioners obtained loan on the basis of mortgage in respect of immovable property, possession whereof cannot be made over to the secured creditor. Elements of fraud and cheating are present.

In such circumstances, the need for custodial interrogation of the petitioners cannot be overlooked.

Consequently, we are unable to grant anticipatory bail to the petitioners.

Accordingly, prayer for anticipatory bail of the petitioners is rejected and the application being CRM (A) 5867 of 2022 is dismissed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)