

02.05.2023

Serial no. 09

[Dd]

(Anticipatory bail)

(Allowed)

CRM (A) 1816 of 2023

In re : An Application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure in connection with **Narayanpur** Police Station Case No. **170** of **2022** dated **20.11.2022** under Sections **406/ 420/ 467/ 468/ 471/ 474/120B/34** of the IPC.

-And-

In the matter of : **Md. Giasuddin Mondal @ Md. Giasuddin Mondal**

... .. Petitioner

*Mr. Souvik Mitter,
Mr. Angshuman Chakraborty,
Mr. S. S. Saha,
Sk. Masud Hasan, Advocates
... .. For the Petitioner*

*Mr. Madhusudan Sur, Id. APP
Mr. Manaranjan Mahata, Advocates
... ..For the State*

*Mr. Ayan Bhattacharjee,
Mr. Debangsu Bhattacharjee,
Mr. Arijit Banik,
Ms. Madhurima Sarkar, advocates
... ..For the de facto complainant*

Petitioner prays for anticipatory bail.

Learned advocate appearing for the petitioner submits that the petitioner is a witness to a power of attorney. Such power of attorney was executed in the month of December, 2020. Certified copy of such power of attorney was obtained by the de facto complainant in January, 2022. Thereafter, after a lapse of about ten months in November, 2022 the police complaint was lodged. Till date, to his knowledge. the power of attorney was not revoked by the de facto complainant.

Learned advocate appearing for the de facto complainant submits on the strength of the power of attorney, the petitioner is dealing with immovable properties belonging to the de facto complainant. He refers to reports obtained by his client which, according to him, establishes that the signatures of his client on the power of attorney were forged. On a query of Court, he submits that the original power of attorney is with the petitioner. The opinion of the forgery was obtained on the basis of the certified copy of the power of attorney.

Learned advocate appearing for the State draws the attention of the Court to the materials in the case diary. According to him, pages in the power of attorney were changed by the petitioner and others involved. The investigations are yet to be concluded.

Admittedly, the de facto complainant executed a power of attorney. The de facto complainant claims that certain pages in the power of attorney were changed. He was aware of such change in the month of January, 2022 when he obtained the certified copy of the power of attorney. He took no steps to secure his civil rights in respect of the immovable property, if he has any. The de facto complainant, thereafter, instituted the present police complaint in the month of November, 2022. There is a question of delay.

As on date, apparently, the power of attorney issued by the de facto complainant is yet to be revoked. The original power of attorney was not sent for the purpose of obtaining opinion of experts on the signatures of the de facto complainant of such power of attorney.

In such circumstances, we find that there are disputes which are civil in nature between the private parties. We, therefore, 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 report before the Investigating Officer once in a month till the conclusion of the investigation and on further condition that the petitioner shall appear on every date before the jurisdictional Court on and from the date fixed for appearance of the accused and in default the jurisdictional Court will pass appropriate order to secure the presence of the petitioner in Court including cancelling the anticipatory bail granted without further reference to this Court.

Prayer for anticipatory bail of the petitioner is **allowed**.

CRM (A) 1816 of 2023 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)