

31.03.2023.
73.
Ct.No.28
as

C.R.M. (DB) 2712 of 2022

In Re:- An application for cancellation of bail under Section 439(2) of the Code of Criminal Procedure.

In the matter of : Golenur Begum.

... Petitioner.

Md. Sabir Ahmed,
Mr. Swagata Biswas.

.....for the Petitioner.

Mr. Neguive Ahmed, Id. A.P.P.,
Ms. Trina Mitra.

...for the State.

Ms. Ameena Kabir.

...for the Opp.Nos.2 to 4.

Order dated 30.06.2022 passed by the learned Additional Chief Judicial Magistrate, Bolpur, Birbhum granting bail to opposite party Nos.2 to 4 has been assailed.

Petitioner's son was married to the daughter of opposite party No.2. A gift deed is said to have been registered by the petitioner in favour of her daughter-in-law viz., Nadira Sultana i.e. daughter of opposite party No.2. On the day of registration of the deed brother of the petitioner lodged FIR alleging she was kidnapped and forced to sign on the gift deed. Fake PAN card, Aadhaar Card etc. were utilised to register the deed. Though pre-arrest bail of opposite party Nos.2 to 4 was rejected, investigating agency did not take steps to arrest them. Subsequently, they appeared before the jurisdictional Magistrate and were taken into police custody. Though learned Magistrate observed investigation was not

conducted properly, by impugned order dated 30th June, 2022 the opposite party Nos.2 to 4 were released on bail.

Mr. Sabir Ahmed, learned Advocate for the petitioner submits no investigation with regard to fake documents have been made.

Ms. Ameena Kabir, learned Advocate for the opposite party Nos.2 to 4 submits petitioner had voluntarily executed the deed in favour of her daughter-in-law. Due to matrimonial discord, the present case has been lodged. Civil suit has been filed by petitioner seeking cancellation of the deed. Opposite party Nos.2 to 4 were subjected to custodial interrogation. Thereafter, they were released on bail. Further detention of the opposite party Nos.2 to 4 is not necessary. Order of bail does not call for interference.

Mr. Neguive Ahmed, learned Additional Public Prosecutor with Ms. Trina Mitra produced the Case Diary.

We have considered the materials on record. In the FIR, it is alleged petitioner was abducted and forced to sign the gift deed. On the very day, deed was presented and registered on the strength of alleged fake documents. FIR came to be registered. Fake documents relied by the opposite parties have been seized by the investigating agency. The said opposite parties were taken to police custody and subject to custodial interrogation. Thereafter, they have been released on bail.

Validity of the deed is under challenge in the civil proceeding. We are conscious pendency of the civil proceeding does not bar a criminal case if the ingredients of offences are disclosed. It is contended that the deed was executed out of free will. Owing to matrimonial discord a different stance has been taken in the FIR. These aspects may be gone into at the appropriate stage of the proceeding. Refusal of anticipatory bail by itself cannot be a ground to hold the bail order is perverse.

We have considered the nature of allegations. Copies of the fake PAN Card/Aadhaar Card etc. of the petitioner are in the custody of the investigating agency. Opposite parties were subjected to custodial interrogation and further detention for progress of investigation is not necessary. Offences are triable by Magistrate and the order granting bail does not suffer from jurisdictional error.

Under such circumstances, we are of the opinion order granting bail to opposite party Nos.2 to 4 does not require interference, however, subject to conditions.

Opposite party Nos.2 to 4 shall meet the Officer-in-charge, Bolpur Police Station once in a week until further order.

With this observation the application is disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

