

06.10.2023

SL. 11

Court No. 29

Suvayan

(Allowed)

C.R.M. (A) 3537 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Beniapukur** Police Station Case No. **50 of 2023** dated **06.02.2023** under Sections **420/465/467/468/471/506/34** of the IPC

And

In the matter of: **Sk. Golam Zafar**

....petitioner.

Mr. Daanish Haque

Mr. Abdul Zahid

Mr. Md. Siraj Munir

...for the petitioner.

Mr. Sudip Ghosh

Mr. Bitasok Banerjee

...for the State.

Mr. Imtiaz Ahmed

Mrs. Ghazala Firdaus

Mr. Syed Nafirul Islam

Mr. Sk. Saidullah

Mr. Mithun Mondal

Mr. Md. Arsalan

...for the de facto complainant.

1. Heard learned Counsel for both the parties.
2. The property in question appertains to 37/5, Dr. Suresh Sarkar Road, P.S. – Beniapukur, Kolkata – 700014 measuring an extent of 200 sq. ft. It is found from the schedule of property in the suit that the suit filed by the present petitioner relates to one flat measuring about 1000 sq. ft. situated at the ground floor over the aforementioned premises.
3. Learned Counsel for the informant submits that there is also a godown in the self-same premises. From the materials on record it is clear that rightly or wrongly a civil suit has been filed by the petitioner claiming tenancy right over the self-same property. Though the dispute is purely civil in nature the element of criminality is that in the original deed dated 25.12.2021 executed by the informant in favour of the present petitioner, the signature of the informant is alleged to be forged.

4. Learned Counsel for the petitioner fairly submits that assuming arguendo, the dispute to be civil, the criminal action of forgery cannot be gone into by the civil court for which his client has been constrained to lodge this FIR.
5. Learned Counsel for the State submits that the petitioner has acted ad libitum in his conduct when he appeared in obedience to notice under Section 41A Cr.P.C. On the first occasion he undertook to produce the original agreement deed. On the second occasion he said that he forgot to bring the deed and on the third occasion he did not appear before the I.O. and filed this application for anticipatory bail.
6. Learned Counsel for the petitioner produce the alleged original document before us in two sets in Court today.
7. Learned Counsel for the informant submits that according to his instruction there is no such document and the entire document is forged.
8. We deem it just and proper to hand over the two sets of document produced by the learned Counsel for the petitioner in Court today to Mr. Sudip Ghosh, learned Counsel for the State who shall hand over the said document to the I.O. and take a receipt of the document endorsing that the document has been received by the I.O. from the State Counsel as per direction of the Court. If preparation of seizure list is required, the seizure list shall be prepared on the basis of the material that the documents have been seized on production by the petitioner through his learned Counsel to the Court and on receipt of the same from State Counsel as handed over by the Court.

9. Learned Counsel for the State handed over the documents to the I.O. in Court itself. Now, the after long and short of the matter is, that the evidence which was very much necessary for the investigation has been handed over to the I.O. still there may be some requirement of investigation necessitating appearance of the petitioner before the I.O. but taking into consideration the nature of evidence, we do not find any justification for custodial interrogation.
10. Regard being had to such facts and submissions, factum of permanent residence of the petitioner, nature of allegation, nature of evidence and substantial progress in investigation, it is directed that the petitioner shall be released on bail by the Arresting Officer in the event of his arrest in the aforesaid P.S. case on such terms and conditions as deemed just and proper in the facts and circumstances of the case including the conditions that:
 - (i) The petitioner is directed to appear before the I.O. once in a week on the day and time fixed by the I.O. for the purpose of investigation till submission of F.F.
 - (ii) The petitioner shall appear before the jurisdictional Magistrate on being produced by the I.O. on or before 6th December, 2023 to give his specimen signatures and hand writing that may be necessary for the purpose of investigation and trial.
 - (iii) The petitioner shall not threaten, induce or

coerce any witness of this case in any manner whatsoever during the currency of this order.

11. The concerned Arresting Officer is hereby directed to act upon the server copy of this order.
12. Within 21 days from today the petitioner shall appear before the I.O. alongwith a server copy/certified copy of this order. If server copy is supplied, learned I.O. shall act upon that.
13. Accordingly, the prayer for the anticipatory bail is allowed.
14. The application being CRM (A) 3537 of 2023 is disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

