

27.09.2023
Sl.4 & 5
Court No.5
(AD)
(Allowed)

C.R.M. (A) 3589 of 2023

With

IA No.: CRAN 1 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Regent Park** Police Station Case No.**231** dated **03.08.2023** under Sections **188/354/506/509/34** of the Indian Penal Code, 1860.

And

In the matter of: **Tanmoy Banerjee**

....petitioner.

Mr. Debasish Roy, Ld. Sr. Advocate
Mr. Anand Kesari
Mr. Saumava Mukherjee
Mr. Subhankar Chatterjee

... for the petitioner.

Mr. Rudradipta Nandy, Ld. APP
Mr. Ranabir Roy Chowdhury
Mr. Mainak Gupta

...for the State.

Mr. Phiroze Edulji
Mr. Arijit Bardhan
Mr. Avik Ghatak
Ms. Roustavi Mukherjee
Mr. Saibal Dasgupta

... for the de facto complainant.

with

C.R.M. (A) 3590 of 2023

With

IA No.: CRAN 1 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Regent Park** Police Station Case No.**231** dated **03.08.2023** under Sections **188/354/506/509/34** of the Indian Penal Code, 1860.

And

In the matter of: **Sunil Dubey**

....petitioner.

Mr. Debasish Roy, Ld. Sr. Advocate
Mr. Anand Kesari
Mr. Saumava Mukherjee
Mr. Subhankar Chatterjee

... for the petitioner.

Mr. Rudradipta Nandy, Ld. APP
Mr. Ranadeb Sengupta

...for the State.

Mr. Phiroze Edulji
Mr. Arijit Bardhan
Mr. Avik Ghatak
Ms. Roustavi Mukherjee
Mr. Saibal Dasgupta

... for the de facto complainant.

Two applications for anticipatory bail are taken up for analogous consideration as they emanate out of the same police case.

The de facto complainant applied for being added in the application for anticipatory bail.

Both the applications of the de facto complainant for being heard in the applications for anticipatory bail are allowed for the ends of justice.

Learned Advocate-on-record for the petitioners granted liberty to amend the cause-title.

We heard the respective parties.

The two petitioners before us are employees of a finance company. The de facto complainant is a relative of a person who obtained loan from the finance company and defaulted in payment. Proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act were undertaken as against the secured assets. Possession was sought to be taken of the secured assets. It is at the time of taking of possession of the secured assets that, according to the de facto complainant, an incident occurred in respect of which the police complaint was lodged. The Court is informed that, so far as immovable properties are concerned, possession was taken. Possession of the movables is a subject-matter of proceedings under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act and is pending before the Tribunal. The Court is informed that, the Tribunal heard the application and reserved judgment.

State is represented.

Learned Advocate for the State submits that, the petitioners did not comply with the notices issued under Section 41A of the Code of Criminal Procedure.

We perused the case diary. There is a statement recorded under Section 164 of the Code of Criminal Procedure.

Apparently, the incident is alleged to occur in presence of a number of persons. A finance company was trying to recover its secured assets through a process known to law, when the incident is alleged to occur. The petitioners before us are employees of the finance company.

Materials on record and in the case diary allows an inference of a possibility of false implication in an attempt to settle scores for taking measures under the SARFAESI Act.

In such circumstances, we deem it appropriate to grant anticipatory bail to both the petitioners.

We clarify that our order should not be construed to be a decision on merits with regard to the SARFAESI proceedings.

Accordingly, we direct that in the event of arrest, the petitioners, namely, **Tanmoy Banerjee** in CRM(A) 3589 of 2023 and **Sunil Dubey** in CRM(A) 3590 of 2023 shall be released on bail upon furnishing a Bond of Rs.10,000/- (Rupees Ten Thousand Only) each, with two sureties of like amount each, to the satisfaction of the Arresting Officer and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on condition that both the petitioners will report before the Investigating Officer as and when called for till the conclusion of the investigation and on condition that the petitioners 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 petitioners in Court including cancelling the anticipatory bail granted without further reference to this Court.

Accordingly, the prayer for anticipatory bail of the petitioners in both the applications is allowed.

C.R.M. (A) 3589 of 2023 with IA No.: CRAN 1 of 2023 and **C.R.M. (A) 3590 of 2023 with IA No.: CRAN 1 of 2023** are, thus, disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)