

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction

CRM (A) 703 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 22.08.2023 in connection with Phansidewa Police Station Case No. 82 of 2023 dated 03.03.2023 under Sections 447, 468, 471, 420 and 34 IPC, 1860.

And

In the matter of: Jayanta Kumar Saha and another

.... petitioners

Mr. Somraj Paul,
Mr. Diptesh Naha

... for the petitioners

Mr. Sourav Ganguly,
Mr. Dhiman Sil

... for the State

Mr. Mayank Roy

... for the *de facto* complainant

1. The petitioners argue that the *de facto* complainant, on whose allegation the petitioners were implicated in the offences regarding land grabbing, herself subsequently disowned the fact of her having lodged any complaint.
2. It is submitted by learned counsel for the *de facto* complainant that the *de facto* complainant never lodged any such complaint and has taken steps challenging such alleged complaint.
3. Learned counsel appearing for the petitioners also reiterates that there is nothing on record to implicate the petitioners and the police officials are operating in tandem with certain rackets, to implicate the petitioners.

4. Learned counsel for the State denies the allegations against the authorities and opposes the prayer for anticipatory bail. By placing reliance on the case diary, it is submitted by the State that certain statements were made against the petitioners.
5. We find that the *de facto* complainant, whose alleged complaint was the genesis of the present investigation, has herself denied having made the complaint. Hence, at least for the purpose of anticipatory bail, sufficient doubt is cast on the initiation of the investigation to entitle the petitioners to the benefit of anticipatory bail.
6. Hence, CRM (A) 703 of 2023 is allowed, thereby granting anticipatory bail to the petitioners on condition that the petitioners shall comply with the stipulations in Section 438(2) of the Code of Criminal Procedure.
1. In the event of arrest, the petitioners shall be released on bail upon furnishing bonds of Rs. 5,000/- each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the Arresting Officer. The sureties may be common in respect of all the petitioners. Further, the petitioners shall make themselves available in the event so required for the purpose of facilitating proper investigation into the matter.
7. Needless to say, the merits of the allegations and counter-allegations have not been gone into by this court.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)