

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

11.01.2023
Court No.1
(skb 51)

CRM(A) 727 of 2022

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 in connection with Rajganj Police Station Case No. 504 of 2022 dated 02.09.2022 under Sections 406/419/420/120B/34 of the Indian Penal Code

And

In the matter of: **Amit Agarwal and others**

. **Petitioners.**

Mr. Bikash Goswami,
Mr. Debajit Kundu

... For the Petitioners.

Mr. Nilay Chakraborty,
Mr. Sourav Ganguly

... For the State.

Mr. Arjun Chowdhury,
Ms. Pratusha Dutta Chowdhury

... for the defacto complainant.

Heard learned counsel appearing for the petitioners.

It is contended that the petitioners were unaware of the fact that the power of attorney executed in favour of petitioner no.5 was cancelled subsequently and their ignorance to that fact led petitioner no.5 to execute the deed against the consideration money amounting to Rs.2,71,00,000/- (rupees two crores and seventy one lacs). It is further submitted by learned counsel for the petitioners that the vendors did not pay the petitioner no.5 the entire consideration money which is why as an attorney, he could not transfer the fund to the owner of the land-in-question. Petitioner no.5 received only Rs.25 lacs. It is further submitted that the petitioner no.5 paid a sum of Rs.50 lacs by cash to the owner of the land-in-question.

Refuting such contention, Mr. Chakraborty, learned counsel for the State submits that law of land does not permit cash transaction beyond Rs.2

lacs and it is absolutely incorrect to say that a sum of Rs.50 lacs was paid to the owners and that too in the absence of acknowledgement of the receipt.

Mr. Chowdhury, learned counsel appearing for the defacto complainant also denied the factum of payment of sum of Rs.50 lacs.

Mr. Goswami, learned counsel appearing for the petitioners fairly submits that as the entire consideration money has not been paid, the transaction cannot be said to have been completed. Sale is incomplete and a civil suit is pending.

Considering the nature of dispute, we are inclined to admit the petitioners on anticipatory bail on condition of depositing a sum of Rs.50 lacs with the learned Registrar, Circuit Bench at Jalpaiguri by two installments, first of which would be of Rs.25 lacs to be paid by 13th January, 2023 and next Rs.25 lacs by 13th February, 2023. With this observation, we allow the prayer for anticipatory bail.

We accordingly direct that in the event of arrest, the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties each of like amount to the satisfaction of the Arresting Officer and also to comply with the conditions laid down under Section 438(2) of The Code of Criminal Procedure, 1973. The petitioners shall join the investigation and shall not interfere with any witnesses or tamper with any evidence in any manner whatsoever.

The application for anticipatory bail being CRM(A) 727 of 2022 is allowed and disposed of in terms of the above.

(SIDDHARTHA ROY CHOWDHURY, J.)

(MOUSHUMI BHATTACHARYA, J.)