

06.02.2024
DL-48
Court No.29
(AD)
(Rejected)

C.R.M. (A) 344 of 2024

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Purulia (M)** Police Station Case No.**308 of 2023** dated **16.12.2023** under Sections **341/323/506/420/467/468/471/120B** of the Indian Penal Code, 1860.(G.R. Case No.2210 of 2023).

And

In the matter of: **Sri Meghnath Mandal & Ors.**

....petitioners.

Mr. Milon Mukherjee, Ld. Sr. Advocate

Mr. Satya Ranjan Kundu

... for the petitioners.

Ms. Zareen N. Khan

Mr. Arup Sarkar

... for the State.

Mr. Pawan Kumar Gupta

Mr. Sougata Mitra

Ms. Sofia Nesar

Mr. Santanu Sett

Ms. Soma Chakraborty

Ms. Subhasri Chatterjee

... for the de facto complainant.

Leave granted to the learned Advocate-on-record for the petitioners to correct the cause-title.

Petitioners pray for anticipatory bail.

Learned Senior Advocate appearing for the petitioners submits that none of the provisions of the Indian Penal Code, 1860 under which the petitioners are sought to be investigated into, are not attracted in the facts and circumstances of the present case. He relies upon *1990 C Cr LR (Cal) 1 (J TH Zwart & Ors. Vs. Indrani Mukherjee)* and *(2018) 4 C Cr LR (Cal) 631 (Dr. Amitava Chatterjee vs. The State of West Bengal & Anr.)* in support of the proposition that, merely making a false statement assuming such statement to be false in a document does not translate a document into a forgery. He draws the attention of

the Court to the contents of the First Information Report. He submits that there is a civil suit pending in respect of one of the plots. He refers to order passed in respect of such plot.

Learned Advocate appearing for the State refers to the materials in the case diary. She submits that, the registered power of attorney on the basis of which the petitioners are seeking to act, includes immovable properties vested with the State. She submits that there are criminal antecedents of the petitioner no.1 relating to involvement of similar allegations of land grabbing.

Learned Advocate appearing for the de facto complainant submits that, even going by government records, the petitioners before the Court were aware of the fact that the petitioners were not the owners of all the plots of lands included in the power of attorney. He submits that through the power of attorney, immovable properties not belonging to the petitioners are sought to be dealt with. He points out that the power of attorney is a registered power of attorney.

We perused the materials in the case diary.

There is a registered power of attorney in respect of several immovable properties.

Materials in the case diary suggest that the executant of the power of attorney is not the owner of all the immovable properties involved in the registered power of attorney.

In *J TH Zwart & Ors. (supra)*, the Division Bench held that incorporation or inclusion of a false statement in a document would not *ipso facto* make the document false. For a document to be false, it needs to tell a lie about itself.

Similar view was expressed by another Division Bench in *Dr. Amitava Chatterjee (supra)*, which it considers an authority of the Supreme Court where it is held that, the condition precedent for forgery is making a false document or false electronic record or part thereof.

The criminal complaint is at the stage of investigation.

There is a registered power of attorney where, there is a claim of ownership in respect of immovable properties not belonging to the executant of the power of attorney. Such executant was aware that such executant was not the owner of such immovable properties. Some of the plots include in the power of attorney belongs to the State also.

Role of the petitioners in the incident requires investigation.

Enlarging any of the petitioners on anticipatory bail at this stage will be inimical to such investigation.

Consequently we are unable to grant anticipatory bail to the petitioners.

Accordingly, the prayer for anticipatory bail of the petitioners is rejected.

C.R.M. (A) 344 of 2024 is dismissed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)