22.04.2024
DL-425
Court No.29
(AD)
(Allowed)

C.R.M. (A) 1319 of 2024

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Baruipur** Police Case No.**59 of 2024** dated **12.01.2024** under Sections **420/406/465/468/471/34** of the Indian Penal Code, 1860, pending before the Court of the Learned Additional Chief Judicial Magistrate, Baruipur, South 24-Parganas. (G.R. Case No.326 of 2024).

And

In the matter of: **Avni Agarwal**

....petitioner.

Mr. S. N. Mookherjee, Ld. Sr. Advocate
Mr. Ranjan Bachawat, Ld. Sr. Advocate
Mr. Ayan Bhattacharya
Mr. Phiroze Edulji
Mr. Dipanjan Dutt
Mr. Rajiv Kumar
Ms. Sarita Sinha
Ms. Sambrita B. Chatterjee
Ms. Priyasha Sengupta

...for the petitioner

Mr. Rudradipta Nandy, Ld, APP
Ms. Sanjana Saha

... for the State

Mr. Sourav Chatterjee
Mr. Soumya Nag
Mr. Abhinav Rakshit

... for the de facto complainant.

1. Petitioner prays for anticipatory bail.
2. Learned Senior Advocate appearing for the petitioner draws the attention of the Court to the contents of the police complaint. He submits that, the present petitioner is not alleged to be involved in the alleged transaction.
3. Learned Senior Advocate appearing for the petitioner submits that, a Will was left behind by the original owner of a popular brand 'Haldiram'. A probate proceeding was initiated in respect of grant of probate of the Will being IA No.GA 2 of 2020 in PLA No.101 of 2020 in which, an interim order was passed. He submits that, his client appointed a Constituted

Signed By :
ABHIJIT DAS
High Court of
Calcutta
23 rd of April
2024 06:16:55
PM

Attorney for the purpose of managing the immovable properties left behind by the deceased and owned by a company. Such Power of Attorney holder allegedly entered into the so-called agreement for sale. He submits that, the mother of the petitioner was arrested. The application for bail is pending before the Coordinate Bench. He refers to a judgment and order dated February 8, 2022 passed in CRM 7652 of 2021 by the High Court and submits that, the son of the deceased was granted anticipatory bail. He submits that, in such judgment and order, notice of *(2021) 6 SCC 191 (Naveen Singh vs. State of Uttar Pradesh & Anr.)* was taken. It is subsequent thereto, the present conspiracy was hatched to falsely implicate the petitioner and her mother. Petitioner is the daughter of the deceased.

4. Learned Advocate appearing for the State refers to the materials in the case diary. He submits that, the petitioner relied upon a forged order of the High Court passed in PLA 101 of 2020, IA No.GA 2 of 2020.

5. Learned Advocate appearing for the de facto complainant refers to the agreement for sale. He submits that, the agreement for sale recites a forged order of the High Court. He submits that, his client paid a sum of Rs.44 lacs in cash and Rs.11 lacs by cheque. So far as the cheque is concerned, he submits that, the sum was never encashed.

6. We considered the materials in the case diary as also the respective submissions of the learned Counsel appearing for the parties.

7. Apparently, there is a probate proceeding pending in respect

of the Will of Mahesh Kumar Agarwal being PLA 101 of 2020 in respect of probate proceeding and application for appointment of administrator *pendente lite* was made being IA No. GA 2 of 2020 in which an order dated April 27, 2023 was passed restraining the heirs and legal representatives of the deceased from dealing with the immovable properties of the deceased. Subsequent thereto, the son of the deceased approached the High Court for grant of anticipatory bail in respect of a police case involving, *inter alia*, an allegation of rape. Such application for anticipatory bail being CRM 7652 of 2021 was allowed by a judgment and order dated February 8, 2022. In such judgment and order, notice was taken of *Naveen Singh (Supra)* where, the facts of that case was discussed. It was found that*, Naveen Singh (supra)* related to a case of forgery of Court documents. Apparently, the deceased owned substantial stake in a company which owned immovable properties. Apparently, the mother of the petitioner herein, widow of the deceased, executed a Power of Attorney in favour of a person for the removal of unauthorized encroachment in an immovable property. Such Power of Attorney was apparently executed on behalf of a legal entity in which the deceased held substantial shares in.

8. Court is informed that such Power of Attorney was revoked on September 21, 2023. Apparently, an agreement for sale of the immovable property belonging to the legal entity in which, the deceased held substantial share in, was entered into between the Power of Attorney holder and the de facto complainant on May 18, 2023. The de facto complainant claims that, he paid

a sum of Rs.44 lacs in cash and Rs.11 lacs by way of a cheque. The last payment encashed apparently is on October 28 of 2023. The cheque was, however, was not encashed.

9. The Power of Attorney on the basis of which, the de facto complainant claims that, the agreement was entered into was revoked on September 21, 2023 and advertisement with regard thereto was published on September 28, 2023. As noted above, the last cash payment was made on October 28, 2023, the police complaint was lodged on January 11, 2024. Police filed charge sheet on March 26, 2024.

10. It is submitted on behalf of the State that, subsequent to the filing of the charge sheet, further investigations are going on. It is also claimed on behalf of the State that the mother of the petitioner is presently staying with the Power of Attorney holder. In the further investigations, no doubt, the State will look into the cash payments as claimed by the de facto complainant and particularly if any provision of the Income Tax Act, 1961 stands violated with regard thereto or not. The involvement of the petitioner even going by the strength of the written complaint is that, the petitioner allegedly introduced the de facto complainant with the Power of Attorney holder and her mother.

11. The petitioner before us is a lady. Police filed charge sheet. Materials in the case diary do not suggest requirement of placing the petitioner in custody at this stage.

12. In such circumstances, we grant anticipatory bail to the petitioner.

13. Accordingly, we direct that in the event of arrest, the

petitioner shall be released on bail upon furnishing a Bond of Rs.10,000/- (Rupees Ten Thousand Only), with two sureties of like amount each to the satisfaction of the Arresting Officer and also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on condition that the petitioner 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 petitioner in Court including cancelling the anticipatory bail granted without further reference to this Court.

14. Accordingly, the prayer for anticipatory bail of the petitioner is allowed.

15. **C.R.M. (A) 1319 of 2024** is, thus, disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)