

20.08.2024
SL No.5
Court No.29
(gc)
(Allowed)

CRM (A) 2657 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure corresponding to Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with English Bazar Police Station Case No.149 of 2024 dated 31.01.2024 under Sections 406/420 of the Indian Penal Code read with Section 3(1)(x) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

And

In the matter of : **Ajit Kumar Saha & Anr.**

- Petitioners.

Md. Wasim Akram

....For the Petitioners.

Mr. Partha Pratim Das,

Mr. Asif Dewan

... For the State.

1. Pursuant to our direction, the de facto complainant is personally present in Court.
2. Heard the learned Counsel for the parties including the de facto complainant.
3. The dispute arose with regard to the sale of an immovable property. It is alleged by the de facto complainant that the land shown to him was not actually sold and mentioned in the deed of conveyance. When the de facto complainant demanded refund of entire amount or to sale the property that was actually shown to the petitioner at the time when the agreement was entered into and pursuant to that entire consideration amount has been paid, the de facto complainant was threatened with dire consequences.
4. The learned Counsel for the State has urged that the anticipatory bail application may not be maintainable as it is the offence under the Scheduled Caste and Scheduled Tribe

(Prevention of Atrocities) Act, 1989. It is further submitted that the petitioners have humiliated the de facto complainant by making allegation of his caste which is a relevant factor in deciding the anticipatory bail.

5. We have carefully read the statement which forms part of the complainant. Prima facie, it appears that the said humiliation or insult alleged to have been made on the basis of the caste, was not made in public place and hence restriction under the said Act shall not apply in view of the decision of the Hon'ble Supreme Court in ***Hitesh Verma Vs. The State of Uttarakhand*** reported at **2020 (10) SCC 710**.
6. Insofar as other allegations are concerned, having regard to the nature of the dispute and extent of complicity of the petitioners in the commission of the alleged offence, we are of the view that custodial interrogation of the petitioners is not necessary. However, there should be strict and stringent conditions to be imposed.
1. Accordingly, we direct that in the event of arrest, the petitioners, namely, **Ajit Kumar Saha** and **Usha Rani Saha**, shall be released on bail upon furnishing a bond of Rs.40,000/- each, with two sureties of like amount each, one of whom must be local, 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 corresponding to Section 482(2) of the BNSS, 2023 and the petitioner no.1 shall meet the I.O. once in a week till the submission of the final report and the petitioner no.2 shall cooperate with the investigation.

2. However, the petitioners shall not enter the jurisdiction of English Bazar Police Station till the submission of the final report except for the purpose of meeting the Investigating Officer and attending the Court.
3. It is further directed that the petitioners shall provide the address where they shall be presently residing with the Investigating Officer as well as the Officer-in-Charge of the local Police Station where they shall be residing.
4. It is further directed that the petitioners shall appear before the learned Judge, Special Court, Sessions Court at Malda in connection with Special Case No.01 of 2024 within two weeks from date.
5. Accordingly, the application for anticipatory bail is disposed of.
6. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Soumen Sen, J.)

(Uday Kumar, J.)