

11.09.2024
Court No.29
Item No. 30

Allowed
sg

CRM (A) 3235 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure read with Section 482 of the BNSS, in connection with New Town Police Station Case No. 222 of 2024 dated 26.08.2024 under Sections 126(2)/351(2)/336(3)/61(2)/3(5) of BNS, pending before the learned Additional Chief Judicial Magistrate at Barasat.

And

In Re: **Om Prakash Mistry & Ors.**

Petitioners

Mr. Pritam Roy
Ms. Soewel Bhattacharjee
Ms. Triparna Roy

For the Petitioners

Ms. Rituparna De Ghose
Mr. Madhumita Basak

For the State

Susnigdho Bhatacharyya
Mr. Subrata Halder

For the defacto complainant

1. The learned Counsel for the petitioners submits that there is case and counter case between the parties with regard to ownership of the land in question and the false compliant is the outcome of such litigation.
2. The learned Counsel for the State has produced the case diary and submitted that on the basis of a Power of Attorney, land in excess was sold by the petitioner no.1 in favour of the petitioner no.2. It is further submitted that the original power of attorney which is claimed to be forged and fabricated is in possession of the petitioner no.1.
3. The learned Counsel for the defacto complainant has submitted that the power of attorney is forged as she has not executed any power of attorney and

there are series of complaints against the present petitioners of offences similar in nature.

4. Considering the materials available in the case diary, the nature and extent of complicity of the petitioners in the commission of alleged offence and there appears to be a civil dispute between the parties with regard to the ownership of the land, we are of the view that custodial interrogation of the present petitioners is not necessary.
5. Accordingly, we direct that in the event of arrest, the petitioners, namely, **Om Prakash Mistry, Niranjana Mistry, Arati Mistry, Subodh Sarkar and Manju Mondal**, shall be released on bail upon furnishing a bond of Rs.25,000/- 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 Bharatiya Nagarik Suraksha Sanhita. The petitioner nos.1, 2 and 4 shall meet the I.O. once in a week till the submission of the final report. The petitioner nos. 3 and 5 shall cooperate with the investigation. The petitioners shall appear before the learned Additional Chief Judicial Magistrate at Barasat, within ten days from date.
6. In addition to the aforesaid, the petitioner no.1 shall produce the original power of attorney on the basis of which, the property was sold by the petitioner in favour of his father, within one week from date.
7. We make it very clear that in the event, the original power of attorney is not produced within one week from date, the bail of the petitioner nos. 1, 2 and 3 shall stand cancelled forthwith without any further reference to this Court.
8. Accordingly, the prayer for anticipatory bail of the petitioners is allowed.

9. All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Soumen Sen, J.)

(Prasenjit Biswas, J.)