

03.01.2024
Item No.67
Ct. No. 29
CHC
Allowed

C.R.M.(A) 4373 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Bishnupur** Police Station Case No. **168** of **2023** dated **19.08.2023** under Sections **417/419/420/406/465/468/471** of the Indian Penal Code.

And

In the matter of : Siddhartha Kumar Ghosh

..... petitioner

Mr. Sudipto Moitra, Sr. Advocate
Mr. Samiran Mandal,
Mr. Abhinaba Dan
....for the petitioner

Mr. Swapan Banerjee,
Mr. Anindya Sundar Chatterjee
....for the State

Mr. Jagannath Gangopadhyay
...for the de facto complainant

Petition is taken up for consideration subsequent to the order dated October 16, 2023 passed by the co-ordinate Bench.

By such order, the coordinate Bench granted interim anticipatory bail to the petitioner.

It is submitted at the bar that, such order was passed without consulting the materials in the Case Diary and in view of the ensuing Puja Vacation.

Learned advocate appearing for the petitioner submits that, petitioner purchased immovable property by a registered deed of conveyance. Petitioner applied for mutation and it was granted. Record of rights was also corrected. He draws the

attention of the Court to the fact that another person claiming to be the owner of the immovable property initially filed a title suit which was withdrawn with leave to file a fresh suit. The second suit was filed with a prayer for declaration that the purchase made by the petitioner was invalid. The second suit was withdrawn without retaining the leave to institute a fresh suit on the selfsame subject-matter.

State and the de facto complainant are represented.

Learned advocate appearing for the de facto complainant submits that no title passed to the petitioner. Moreover, the so-called power of attorney was executed in 2007 with the grantor of the power of attorney expiring in 2006. Therefore, on the face of it, no title passed in favour of the petitioner.

Apparently, the disputes between the private parties are civil in nature. Purchase of an immovable property was made by the petitioner by a registered deed of conveyance. The validity and legality of the title of the petitioner was questioned in two title suits filed at the behest of the de facto complainant with the second title suit being withdrawn without reserving the right to file a fresh suit on the selfsame subject-matter.

In such circumstances, we do not feel it necessary that the petitioner should undergo custodial interrogation.

Consequently, we confirm the interim order dated October 16, 2023 passed by co-ordinate Bench.

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 be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioner shall report before the Investigating Officer as and when called for by the Investigating Officer 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.

This application for anticipatory bail is, thus, allowed.

CRM(A) 4373 of 2023 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)