

07.11.2024
Sl. No.10
akd
[ALLOWED]

C. R. M. (A) 3606 of 2024

In Re: An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed on 26.09.2024 in connection with Ultadanga Police Station Case No.182 of 2023 dated 15.12.2023 under Sections 420/506/467/468/471/120B of the Indian Penal Code. (G.R. Case No.2952 of 2023)

And

In Re: **Ashok Kumar Goenka & Anr.**

... .. Petitioners

Mr. Pinak Kumar Mitra
Ms. Subhanwita Ghosh
Ms. Aishwarya Jayshree

... .. for the petitioners

Mr. Ayan Bhattacharyya
Mr. Avinaba Patra

... .. for the de-facto complainant

Mr. Saryati Datta
Mr. Arka Chakraborty

... .. for the State

1. It is submitted on behalf of the petitioners a civil dispute has been given a criminal profile. A facilitation agreement was entered into by and between the petitioners and de-facto complainant. Certain sums were advanced to the de-facto complainant to facilitate possession of a piece of land which was proposed to be developed. As facilitation charges had not been paid, the matter was referred to arbitration. Arbitral award was passed. Instant criminal case has been registered in order to coerce the petitioners. Accordingly, they pray for anticipatory bail.
2. Learned Advocate for the de-facto complainant opposes the prayer for anticipatory bail and submits petitioners have taken inconsistent stance in the arbitration proceeding and in the present application. While before the arbitrator they claimed to be owners of the plot of land vide deeds executed in 2013, deeds annexed to the

application relate to 2014. Amount due and payable is to the tune of Rs. 5 crores. Hence, custodial interrogation of the petitioners is necessary.

3. We have considered the materials on record. A facilitation agreement was executed between the petitioners and the de-facto complainant. Alleging facilitation fees and other charges had not been paid, matter was referred to arbitration. An arbitral award was passed in favour of the de-facto complainant. It is open to the de-facto complainant to execute the arbitral award in accordance with law. Non-payment of arbitral award *per se* would not constitute criminal offence.

4. With regard to the issue that ownership of the land was claimed on the strength of deeds which are different from those referred before the arbitrator, we are of the opinion this issue does not relate to controversy between the parties. Petitioners have not challenged the arbitral award and no wrongful loss is suffered by the de-facto complainant on such score.

5. Given this situation we are of the opinion custodial interrogation of the petitioners for progress of investigation is not necessary and they may be granted anticipatory bail.

6. Accordingly, we direct in the event of arrest, the petitioners, namely **(1) Ashok Kumar Goenka & (2) Anant Goenka**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only) each, 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 482(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 and on further condition that the petitioners shall appear before the jurisdictional court and pray for regular bail within four weeks from date.

7. The application for anticipatory bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

