

JPD-332
Ct No.01
29.07.2024
S. Bag

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (A) 625 of 2024

In Re: - An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Malbazar P.S. Case No. 299 of 2024, dated 25.05.2024 under Section 420/34 of the Indian Penal Code

And

In the matter of: Subhadip Chowdhury And Anr.

....petitioners

Mr. Saikat Chatterjee, Adv.
Mrs. Matan Chakraborty, Adv.

... for the petitioner

Mr. Kallol Acharjee, Adv.
Mr. Chattu Roy, Adv.

...for the State

Mr. Arijit Ghosh, Adv.

... for the de facto complainant

1. Learned counsel for the petitioner argues that two agreements were entered into on the same date between the petitioner no. 1 and the *de facto* complainant for different considerations.
2. In Clause 6 of the concerned agreements, it was stipulated that the first party, that is, petitioner no. 1 was bound to solve all disputed matters if arise in respect of the said land before the completion of the registration process. If the first party fails to solve the disputed matter upon the said land then the first party would be liable or responsible for the

same and would be bound to refund the total earnest money to the second party without any delay.

3. It is submitted that the petitioner no. 2, the son of the petitioner no. 1, was not a party to the agreement at all. However, both the petitions are sought to be framed under Section 420 of the Indian Penal Code, although the dispute is civil in nature.
4. Learned counsel for the prosecution objects to the prayer for anticipatory bail and submits that charge-sheet has already been submitted and the dispute is civil in nature.
5. Learned counsel for the *de facto* complainant contends that the petitioners have admittedly taken a substantial amount of money pursuant to the agreement but failed to execute the sale deed. That apart, it is also contended that the petitioner no. 2, although not a party, was a signatory as witness to the agreements.
6. Upon a perusal of the materials on record, we are of the considered opinion that the dispute is primarily civil in nature and the remedy of the *de facto* complainant, in any event, lies in a regular civil suit.
7. Insofar as the allegation under the contemplation of Section 420, Indian Penal Code is concerned, we are of the opinion that the matter requires evidence as to whether the parties respectively complied with their parts of the agreement.
8. Hence, we are inclined to grant the benefit of the anticipatory bail to the petitioner, also keeping in view the advanced age of

the petitioner no. 1 and the indirect involvement, if any, of the petitioner no. 2.

9. Accordingly, CRM (A) 625 of 2024 is allowed, thereby granting anticipatory bail to the petitioners on condition that the petitioners shall comply with the stipulations in Section 438(2) of the Code of Criminal Procedure.
10. That apart, in the event of arrest, the petitioners shall be released on bail upon furnishing bonds of Rs.5000/- each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the Learned Chief Judicial Magistrate, Jalpaiguri. The sureties may be common in respect of all the petitioners.
11. Further, the petitioners shall make themselves available during the period of investigation, as and when so required, to meet the Investigating Officer and cooperate with the investigation process.

(Sabyasachi Bhattacharyya, J.)

(Prasenjit Biswas, J.)