

Circuit Bench of Calcutta High Court At Jalpaiguri

CRM (A) 1039 of 2023

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Kotwali Police Station** Case No. **1115 of 2022** dated **11.10.2022** under Sections **120B/420/403** of the Indian Penal Code.

- A n d -

In the matter of : Gobinda Mondal

.... Petitioner.

Mr. Hillol Saha Poddar,
Ms. Mousumi Das,

... For the Petitioner.

Mr. Kollol Acharjee,
Mr. Tapan Bhattacharjee,

... For the State.

Heard Mr. Poddar, learned Counsel for the petitioner and
Mr. Acharjee, learned Counsel for the State.

This petition under Section 438 Cr. P.C. has been filed praying for grant of anticipatory bail to the accused/petitioner in connection with Kotwali P.S. Case No. 1115 of 2022 dated 11.10.2022 under Sections 120B/420/403 of the Indian Penal Code in connection with G.R Case No. 1705 of 2022.

As per the prosecution version, the petitioner is a patta holder of 1.5 bighas of land which he agreed to sell to the informant and received some amount as advance but later on the informant came to know that it is a patta land and the petitioner does not

have the right to transfer it. On this allegation, the aforesaid crime case is registered.

Learned Counsel for the petitioner submits that as per own allegations in the FIR made by the de facto complainant, the case set up by him is purely civil in nature which has been attempted to be converted into a criminal case with oblique motive to implicate the petitioner. He further submits that the petitioner undertakes to cooperate with the investigation.

Learned State Advocate submits that from a bare perusal of the FIR an offence has been made out and, therefore, the petitioner is not entitled for anticipatory bail.

We have carefully considered the submission of learned Counsel for the parties and perused the petition. *Prima facie*, the nature of accusation indicates element of civil dispute. Looking into the nature and gravity of the accusation and the antecedent of the petitioner, we find that it is a fit case to grant anticipatory bail. The petitioner namely, **Gobinda Mondal**, is granted anticipatory bail in relation to afore-noted Case No. 1115 of 2022 dated 11.10.2022 under Sections 120B/420/403 IPC subject to the following conditions:-

- (i) In the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the Chief Judicial Magistrate, Coochbehar and shall abide by the

conditions laid down in Section 438(2) of the Code of Criminal Procedure until further orders.

- (ii) In the event of the petitioner fails to adhere to any of the conditions stipulated in Section 438 (2) of the Code of Criminal Procedure, the learned Court below will be at liberty to cancel the anticipatory bail without further reference to this Court.

Consequently, CRM (A) 1039 of 2023 is allowed.

Urgent certified copy of this order, if applied for, be supplied to the learned Counsel for the respective parties.

(Surya Prakash Kesarwani, J.)

(Rai Chattopadhyay, J.)