

AD 19 & 20
July 30, 2025
Ct. 28
SG

Allowed

CRM(A) 1122 of 2025

An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Polba P.S. Case No.308 of 2023 dated 09.12.2023 under Sections 419/420/467/468/471/34 of the IPC.

And

In the matter of:

Vivekananda Tiwari @ Bivekanda
... petitioner

with

CRM(A) 2070 of 2025

An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Polba P.S. Case No.308 of 2023 dated 09.12.2023 under Sections 419/420/467/468/471/34 of the IPC.

And

In the matter of:

Damyanti Devi Tiwari and another
... petitioners

Mr. Rajdeep Majumder, Sr. Adv.

Mr. Moyukh Mukherjee

Ms. Sagnika Banerjee

Ms. Sarmistha Basak

... for the petitioner in CRM(A) 1122/2025

Mr. Moyukh Mukherjee

Ms. Sagnika Banerjee

Ms. Sarmistha Basak

Mr. Samrat Mandal

... for the petitioners in CRM(A) 2070/2025

Mr. Bibaswan Bhattacharya

Mr. Aritra Bhattacharya

... for the State in CRM(A) 1122/2025

Ms. Rituparna De Ghose

Mr. Debarshi Brahma

... for the State in CRM(A) 2070/2025

The two connected applications are taken up for hearing together.

Learned counsels for the petitioners submit that the original owner of the land in question namely, late Basudev Tiwari had gifted a portion of the land to his son Panchanan Tiwari. Another portion was divided between the said Late Panchanan Tiwari and his brother the Late Akhilanand Tiwari. In order to sell a portion of the property that was exclusively given to Panchanan Tiwari, the petitioners gave a power-of-attorney to some agents. Later on, he found out that the said power-of-attorney holders were trying to sell the entire property in question and notices were given immediately. Subsequently, a police case was started. The power-of-attorney was given in 2019 and revoked in 2020. A suit was filed and an injunction was obtained against the former power-of-attorney holders. But, the instant FIR was lodged only on 09.12.2023. The allegation is that the said power-of-attorney referred to two plots of land which were not owned by the petitioners. These were also sold by the said former power-of-attorney holders. However, this does not implicate the petitioners because the said persons wrongfully sold away the property in 2020, much after the notice of revocation of the power-of-attorney was given in 2020. The dispute, if at all, is purely civil in nature. The petitioners had prayed for quashing of the proceeding before this Court. Initially, interim relief was granted. Finally, the

application was disposed of by granting opportunity to the petitioners to take appropriate steps. In fact, the private respondents filed a title suit for declaration in respect of two plots in question. The petitioners filed counter claim. The civil court refused to grant any injunction in favour of the private respondents in the said case.

Learned counsel for the State opposes the prayer for anticipatory bail, relies on the case diary and submits that there were two plots of land mentioned in the said power-of-attorney, which did not belong to the petitioners. These were transacted by the said agents and money had been flowing from the agents to the petitioners for some time. In fact, some portion of one of the plots in question was sold prior to the issuance of the said notice.

Learned counsel for the State in CRM(A) 2070 of 2025 submits that some of the property in question were not joint properties, but were purchased individually.

It appears that bulk of the two plots in question was transacted after notice was given regarding revocation of the power-of-attorney in question in 2020 and finally the power-of-attorney was revoked on 28.07.2021.

Considering the nature of allegations and the fact that the petitioner has cooperated with investigation by giving his signature for comparison and the fact that injunction was refused in the civil suit filed by the de facto complainant, I do

not think that custodial interrogation of the petitioner is required in this case and I am inclined to grant anticipatory bail to the petitioners.

In the event of arrest, the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- (rupees ten thousand) with two sureties of like amount each, one of whom must be local, 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 corresponding to Section 482(2) of the BNSS, 2023 and on the further conditions that the petitioners shall cooperate with the investigation, shall meet the investigating officer once a fortnight till submission of report in final form and shall not threaten or intimidate witnesses.

The applications for anticipatory bail are, thus, allowed.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of requisite formalities.

(Jay Sengupta, J.)