

18.07.2025

Sl. no. 17

Ct. No. 25

P.M.

C.R.M. (A) 2089 OF 2025

In re : An application for anticipatory bail under Section 482 of the of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Haldia Police Station Case No. 66 of 2025 dated 26.03.2025 under Sections 316(2)/318(4)/351(3)/3(5) of the Bharatiya Nagarik Suraksha Sanhita, 2023.

In the matter of : Manoj Kumar Bhowmik & Anr.

... petitioners

Mr. Mukteswar Maity,
Ms. Manika Sarkar.

.....for the Petitioners.

Mr. Ranjan Kali,
Ms. Mitul Chakraborty,
Mr. Shaswat Nayak,
Ms. Payel Nath

... for the defacto complainant

Mr. Amita Gaur,
Mr. Prakash Mishra

... for the State

Learned counsel for the petitioners submits that the present case has been filed only because SARFAESI notice was pasted upon the property in which a flat was sold to the defacto complainant. Learned counsel submits that as far as the defacto complainant is concerned, property has duly been sold to her against the consideration. Learned counsel submits that it is a simple commercial dispute between the petitioners' company and Bank.

Learned counsel for the state has opposed the bail application.

Learned counsel submits that petitioners who are the owner of the construction company “Om Namo Shivay” sold the mortgaged property to the defacto complainant. Learned counsel for the State further submits that numerous other flats have also been sold in the same fashion. It has also been submitted that the petitioners failed to comply with the notice under Section 35(3) of BNSS, 2023.

Learned counsel for the defacto complainant also opposed the bail application on the ground that the petitioners have taken the money and has not passed the good title to the complainant.

On perusal of the report and in consideration of submission it is clear that the petitioners’ company has sold the flat to the defacto complainant and took money against it, whereas it was allegedly already mortgaged with the Bank. Petitioners are defaulter with the bank. The notice under Section 35(3) of the BNS, 2023 has also not been complied by the petitioners. The Court considers that in such cases thorough investigation is required.

Taken into the facts and circumstances of this case the petitioners are not entitled to anticipatory bail.

Urgent photostat certified copy of this order,
duly applied for, be given to the parties upon
compliance of all usual requisite formalities.

(Dinesh Kumar Sharma, J.)