

CRM (A) 3056 of 2025

In Re: - An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with **New Market** P.S. Case No.**42 of 2025** dated **11.02.2025** under Sections **318(4)/316(4)/338/340(2)/339/61(2)** of the Bharatiya Nyaya Sanhita, 2023.

And

In the matter of : Salil Kumar Das & Ors.

....Petitioners.

Mr. Phiroze Edulji
Mr.Koushik Kundu
Ms. Priyanka Bhattacharyya
....for the petitioners.

Ms. Subhasree Patel
Ms. Kanchan Roy
.....for the State.

Mr. Sandipan Ganguly
Mr. Dipanjan Dutt
Mr. Surojit Saha
....for the de facto complainant.

Learned senior counsel appearing on behalf of the petitioners submits as follows. The de facto complainant is a neighbour of the petitioners. The petitioner nos. 1 and 2 are extremely aged and sick. In fact, while the petitioner nos. 1 to 5 are owners of the property in question, the petitioner no. 6 is the only son of the petitioner no. 1. Several proceedings were taken up in respect of the property in question. First, on the question of demolition of the building, then on the question of the sanction plan. The sanction has now been canceled, which is now challenged before this Court in a writ petition. There is a provision under Rule 142 of the KMC Rules that if there is a tenant then the owners would get more FAR. The petitioner had a tenant, accordingly prayed for such benefit. The present de facto

complainant who is a neighbour of the petitioner simply does not want the petitioners to have more FAR. He alleged that the Inspection Book of the Kolkata Municipal Corporation has been forged. Incidentally, as per 2022 SCC Online Cal 2396, the Inspection Book in question is an internal document of the KMC and cannot be used in evidence. Reliance is also placed on a decision of Co-ordinate Bench of this Court rendered on 13.12.2023 in WPO 1211 of 2023 holding that it is choice of the landlord about which tenant he would have. The petitioner is also being harassed because he belongs to a different political dispensation than the neighbour. In the writ proceeding the KMC authorities had filed an affidavit in opposition stating that they could not find out as to who had forged the Inspection Book. In fact, this sort of activity has been going on for some time.

Learned senior counsel appearing on behalf of the neighbour/de facto complainant strongly opposes the prayer for anticipatory bail. He submits that the petitioners are not entitled to the extra FAR. The Inspection Book in question was positively forged. Although the records of the KMC did not contain the name of the alleged tenant prior to 2009, the latter document contains the same. There are contradictions in documents relied upon by the petitioners before the KMC.

Learned counsel appearing on behalf of the State opposes the prayer for anticipatory bail. She refers to statements of neighbours who denied that there was any tenant of the petitioners by the name

of Joy Saha. However, the said Joy Saha gave a statement that he was a tenant of the petitioners for a limited period.

It appears from the statement of the said Joy Saha contained at page 195 of the case diary, the tenancy was transferred in his name in the year 1997 after his father's demise.

Considering the above and the other materials available in the case diary, 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/- each 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 further condition that the petitioners shall cooperate with investigation, shall not threaten or intimidate witnesses and the petitioner no. 6 shall meet the I.O. as and when required.

The application for anticipatory bail is, thus, allowed.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)