

**Circuit Bench of
Calcutta High Court
at Jalpaiguri
Appellate Side**

06

14.3.2019

Ct. 1

ap

Allowed

C.R.M. 05 of 2019

In Re: An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed on 11.03.2019 in connection with Dhupguri Police Station Case No. 422 of 2018 dated 07.12.2018 under sections 147/148/149/323/325/326/307/353/427 of the Indian Penal Code and under section 9 of the West Bengal Maintenance of Public Order Act and section 3 of the Prevention of Damage to Public Property Act.

In the matter of : Bijan Goswami @ Bapi ... Petitioner

Mr. Kallal Ghosh
Mr. Gobinda Ghosh
Mr. Arkaprava Deb
... For the Petitioner.

Mr. Aditi Shankar Chakraborty.Ld. A.P.P.,
Mr. Saikat Chatterjee
... For the State.

Heard the learned advocates appearing for the parties.

It is submitted on behalf of the petitioner that a series of criminal cases have been registered over the self-same incident of public unrest. It is further submitted that the petitioner is a follower of a political party and has been falsely implicated in the instant case. He further submits that one of the FIR named accused has already been granted anticipatory bail by the Hon'ble Court in CRM 1572 of 2019. He also submits that in the instant case Charge Sheet has already been submitted and there is no need for custodial interrogation.

The learned advocate for the State opposes the prayer for anticipatory bail and submits that under the leadership of the petitioner and others, an unruly mob attacked police personnel and damaged public vehicles.

We have considered the materials on record including the statements of witnesses recorded under section 161 as well as under section 164 of the Code of Criminal Procedure. Although witnesses have spoken about the presence of the petitioner at the place of occurrence, no overt act of assault has been attributed to him.

In view of the submissions made on behalf of the petitioner that there was a political rally which was obstructed by the law enforcement agency and that the final report has already been submitted, we are of the opinion that the extent of complicity of the petitioner including the issue whether shared common object to cause assault on public servants and damage public property, may be decided in course of trial.

In such circumstances, we are of the opinion that custodial interrogation of the petitioner may not be necessary and he may be granted anticipatory bail. Moreover, one of the FIR named accused has already been granted anticipatory bail by the High Court.

Accordingly, we direct that 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 to the satisfaction of the arresting officer and subject to the conditions as laid down under section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioner shall not enter the jurisdiction of Dhupguri Police Station while on bail until further orders.

The application for anticipatory bail is allowed accordingly.

C. R. M. 05 of 2019 is thus disposed of.

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

(Biswanath Somadder, A.C. J.)

(Md. Mumtaz Khan, J.)