

28.06.2019.
Item No. 16
(Allowed)
ab

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI

C.R.M. 319 of 2019

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 23.04.2019 in connection with Dinhata Police Station Case No. 683 of 2013 dated 15.06.2013 (G. R. Case No. 668 of 2013) for commission of offence punishable under Sections 325/326/302/120B/34 of the Indian Penal Code;

And

In the matter of : Uttam Adhikary.

... petitioner.

Mr. Sudip Guha.

...For the petitioner.

Mr. Aditi Shankar Chakraborty, ld. APP,
Mr. Aniruddha Biswas.

...For the State.

Heard the learned Advocates appearing on behalf of the parties.

Apprehending arrest in the connection with Dinhata Police Station Case No. 683 of 2013 dated 15.06.2013 (G. R. Case No. 668 of 2013) for commission of offence punishable under Sections 325/326/302/120B/34 of the Indian Penal Code, the petitioner has filed the instant application for anticipatory bail.

It is submitted by the petitioner that 71 persons have been named in the charge-sheet including the petitioner out of which 54 persons have already been enlarged on bail. It is further submitted that the petitioner stands on the same footing that of the other persons and, therefore, should not be

treated different. It is also submitted that the petitioner has been falsely implicated in the instant case and has no nexus and/or connection with the alleged offence.

We have perused the copy of the orders passed in several applications under Section 438 of the Code of Criminal Procedure filed by the other co-accused and after perusing the statement of a witness recorded under Section 161 of the Code of Criminal Procedure appearing at page 109 of the case diary and the extent of complicity of the petitioner to the alleged offence, we do not find that there is any specific overt act of the petitioner in the alleged offence.

The petitioner, therefore, stands on the same footing that of the other co-accused and is entitled to get immunity in the event of arrest.

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 Rs 5,000/-, one of whom must be local, to the satisfaction of the arresting officer and also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and with further condition that he will meet the Inspector in-Charge of the concerned police station on every week.

This application for anticipatory bail is, thus, **allowed**.

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

(Hiranmay Bhattacharyya, J.)

(Harish Tandon, J.)