

**Calcutta High Court
In the Circuit Bench at Jalpaiguri**

27.08.2019.
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as
(Rejected)

C.R.M. 693 of 2019

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 16.08.2019 in connection with Bhaktinagar P. S. Case No.884 of 2018 dated 11.12.2018 under Sections 447/468/427/34 of the Indian Penal Code and under Section 3(1)(p))q)® of Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act.

In the matter of : Indira Giri & Ors.

... Petitioners.

Mr. Ranadeb Sengupta,
Mr. Dipankar Deb.

...for the Petitioners.

Mr. Aditi Shankar Chakraborty, Id. A.P.P.,
Mr. Sourav Ganguly.

.....for the State.

Heard the learned Advocates appearing for the parties.

It is submitted on behalf of the petitioner that the ingredients of the offences punishable under the provisions of Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act are not disclosed in the facts of the case.

This is hotly disputed by the learned Advocate appearing for the State who submits that the petitioner made false declaration that they were in possession of the land in question which in fact was in the possession of the de-facto complainant, a member of the schedule caste community.

We are of the considered opinion that the issue with regard to possession is a question of fact which requires to

be thrashed out at the appropriate stage of the proceeding in accordance with law. However, in view of the statutory bar under Section 18/18A of the said Act, we are not inclined to entertain the present application seeking anticipatory bail.

Accordingly, the prayer for anticipatory bail of the petitioners is rejected.

It is, however, open to the petitioners to seek appropriate legal remedies in accordance with law, if so advised. Petitioners are also at liberty to appear before the trial court and pray for regular bail within a fortnight from date. In the event they do so, the trial court shall consider their prayer for regular bail independently and in accordance with law without being prejudiced by any observation made in this order.

(Manojit Mandal,J.)

(Joymalya Bagchi, J.)