

06.10.2020

Court No.08
Item No.14
D/L

(Disposed of)

akd

CRM 7459 of 2020

With
CRAN 1 of 2020

In Re:- An application for bail under section 438 of the Code of Criminal Procedure in connection with Serampore Police Station Case No. 124 of 2020 dated 03.04.2020 under Sections 188/153/153A/153B/295A/298/504/505(b)/506 of the Indian Penal Code read with Sections 51(b)/54 of Disaster Management Act and Section 9 of West Bengal Maintenance of Public Order Act.

And

In the matter of : **Mahammad Nawaj Siddique @ Sayed Abbas Siddiki.**

...Petitioner

Mr. Bikash Ranjan Bhattacharyya,

Mr. Arindam Jana,

Ms. Saloni Bhattacharjee.

...For the Petitioner.

Mr. Swapan Banerjee,

Ms. Sima Biswas.

...For the State.

The advocate-on-record for the petitioner undertakes to affirm and properly stamp the petition as per the rules within forty eight hours of resumption of normal functioning of the court. The petition is taken up through video conference on the basis of such undertaking.

From the submissions made by both learned counsel it appears that on religious, political or other persuasions the petitioner made a post in his Face Book on 31st March, 2020 saying that *Allah would* transmit such a virus in our country that would kill crores of people.

Now the question is whether the petitioner in making the post has committed an offence or this post is to be taken as an expression of thought of a crank?

The police issued a notice under Section 41A of the Code of Criminal Procedure, 1973 to the petitioner.

This simply means that at the moment the police does not consider the above facts as constituting a cognizable offence but would like to question the petitioner so as to satisfy themselves whether such an offence has been committed by him.

Therefore, at this stage this application for anticipatory bail is premature.

The petitioner will attend the police to answer the said notice under Section 41A of the Code of Criminal Procedure. The police is free to exercise its power under Section 41A of the Code. Since March, 2020 no arrest has been made.

Should the police come to the conclusion that a cognizable offence has been committed by him warranting his arrest, they will give the petitioner reasonable opportunity to approach this Court to apply for such relief as the petitioner may be advised, before exercising this power.

CRM 7459 of 2020 and the interim application filed therein are disposed of.

(Hiranmay Bhattacharyya, J)

(I. P. Mukerji, J)