

02.12.2020
Sl. No.54
akd
[ALLOWED]

C. R. M. 9584 of 2020 [via video conferencing]

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 18.11.2020 in connection with Uttarpara Police Station Case No. 55 of 2020 dated 10.02.2020 under Sections 120B/325/448/354B/376/511/384 of the Indian Penal Code and Section 3(ii)(x)(xiv)(xv) of the Scheduled Caste and Scheduled Tribes (Prevention of Attrocities) Act, 1989 and charge-sheet filed under Sections 341/323/447/506/120B/34 of the Indian Penal Code and Section 3(i)(x) Scheduled Caste and Scheduled Tribes (Prevention of Attrocities) Act, 1989.

And

In Re: **Suresh Shaw & Ors.**

... .. Petitioners

Mr. Sandip Chakraborty .. Advocate

Mr. Abhinaba Dan .. Advocate

Mr. Supratik Jana .. Advocate

... .. for the petitioners

Mr. Swapan Banerjee .. Advocate

Mrs. Purnima Ghosh .. Advocate

... .. for the State

It is contended on behalf of the petitioners that ingredients of the offence punishable under Section 3 of the Scheduled Caste and Scheduled Tribes (Prevention of Attrocities) Act, 1989 (hereinafter referred to as Act of 1989) are not disclosed in the facts of the case. There were altercations between the parties with regard to illegal construction undertaken by the de-facto complainant and his family members. Accordingly, the petitioners have been falsely implicated in the instant case.

Learned advocate appearing for the State produces the case diary.

We have considered the materials on record including the statements of witnesses recorded under Section 164 of the Code of Criminal Procedure. In paragraph 4 of the application under Section 156(3) of the Code of Criminal Procedure which was treated as FIR there are allegations that the petitioners had abused the de-facto

complainant and others as members of scheduled caste and told them they had no right to reside in the neighbourhood. However, there is no averment that such abuses were hurled in a public place within the hearing of others. Infact statements of witnesses do not disclose such imputation. Accordingly, we are of the opinion that the uncontroverted allegations do not disclose basic ingredients of the offence under Section 3 of the Act of 1989. Thus, Sections 18/18A of the said Act of 1989 do not debar this court from entertaining this application. There is also no medical report supporting the allegation of physical assault. Accordingly, we are inclined in granting anticipatory bail to the petitioners.

Accordingly, we direct that in the event of arrest, the accused/petitioners, namely **(1) Suresh Shaw, (2) Naresh Shaw, (3) Sunita @ Puja Shaw & (4) Subhash Ghosh**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only) each, with two sureties of like amount each, 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.

The application for anticipatory bail is, thus, disposed of.

All concerned authorities shall act in terms of the copy downloaded from the official website of this court.

(Suvra Ghosh, J.)

(Joymalya Bagchi, J.)