

21.01.20
Sl. No.12
ns
Ct. No.1

CALCUTTA HIGH COURT

In the Circuit Bench at Jalpaiguri

C. R. M. 984 of 2019

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 07.11.2019 in connection with Malbazar Police Station Case No.56 of 2017 dated 01.02.2017 under Sections 326/ 307/ 34 of the Indian Penal Code.

And

In Re: ***Prakash Biswas & ors.***

... .. Applicants

Mr. Sudip Guha for applicants

Mr. Kallol Acharjee,
Ms. Namrata Das for State

Applicants have applied for anticipatory bail apprehending arrest in Malbazar Police Station Case No.56 of 2017 dated 01.02.2017 under sections 326/ 307/ 34 of the Indian Penal Code.

Mr. Guha, learned advocate appears on behalf of applicants and submits, his clients have been falsely implicated. The victim has not been cited as witness on charge sheet filed. Ms. Das, learned advocate appears on behalf of State and hands up case diary drawing attention to pages 13 to 18 comprising of, inter alia, injury report.

We find in order sheet following record made on 15th November, 2019:-

"It is most surprising that the Investigating Officer of the case did not think it necessary to record the statement of the victim or cite him as a witness in the charge-sheet.

Let the Inspector-in-Charge of the Malbazar Police Station along with the present Investigating Officer

be personally present in Court with original case diary on the next date of hearing.”

Ms. Das submits, the concerned Inspector-in-Charge could not be contacted because he has since been transferred.

Conduct of Investigating agency compels us to allow the application.

Applicants, in event of arrest, shall be released on anticipatory bail on furnishing bond of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties of 5,000/- (Rupees Five Thousand) each, one of whom must be local, having landed property, to the satisfaction of the Arresting Officer and shall be subject to the condition, as in section 438(2) of the Code of Criminal Procedure and on further condition that applicants shall surrender before the Court below and obtain regular bail within a fortnight from date of this order.

Criminal miscellaneous application, C. R. M. 984 of 2019, is disposed of.

(Arindam Sinha, J.)

(Biswajit Basu, J.)