

DI. May 20,
44. 2021

Through Video Conference

C.R.M. 1490 of 2021

In the matter of : An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on February 4, 2021 in connection with Baishnabnagar Police Station Case No. 263 of 2020 dated May 31, 2020 under Sections 341/325/326/307/427/34 of the Indian Penal Code;

And

In the matter of : Ataur Sk. @ Ataur Sekh & anr. ...petitioners.

Versus

State of West Bengal ...opposite party.

Mr. Kallol Mondal,
Mr. Musharraf Alam Sk.,
...for the petitioners.

Mr. Tanmay Kumar Ghosh,
Mr. Arindam Sen,
...for the State.

We have heard the learned advocates appearing for the parties and perused the case diary.

It is submitted on behalf of the petitioners that a boundary dispute between the family members of the petitioners and the defacto complainant led to case and counter case between the parties with false charges. The learned advocate for the petitioners has drawn our attention to paragraph 5 of the petition to show that the accused persons no. 3, 5, 8 and 9 named in the first information report have been granted bail by the trial court.

The learned Advocate appearing on behalf of the State opposes the prayer for anticipatory bail and produces the case diary. The State corroborates that there was a dispute between the petitioners and the defacto complainant with regard to the construction of a fence.

Considering the nature of the incident and taking into consideration that there may not be any pre-meditation to commit the alleged offence and bearing in mind the fact that the victim has already been discharged and that some of the co-accused persons, similarly placed with that of the petitioners, have been granted bail by the trial court, we are inclined to hold that custodial interrogation of the petitioners may not be required. It further appears that charge sheet has already been submitted against the present petitioners.

Under such circumstances, we direct that in the event of arrest of the petitioners, namely, **Ataur Sk. @ Ataur Sekh and Saimul Sk. @ Saimur Sk.,** they shall be released on bail upon furnishing a bond of Rs. 10,000/- (Rupees ten thousand) only each with two sureties of like amount, one of whom must be local, to the satisfaction of the arresting officer, subject to the conditions as laid down in sub-section (2) of Section 438 of the Code of Criminal Procedure.

We make it clear that this order shall remain in force for a period of five (5) weeks from date within which time the petitioners shall surrender before the jurisdictional court and pray for regular bail. The jurisdictional court shall consider the prayer for bail of the petitioners in accordance with law independently and without being influenced by any of the observations made by us.

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

dns

(**Suvra Ghosh, J.)**

(**Soumen Sen, J.)**