

CRM No.2843 of 2020
(via vide conference)

02.08.21

(S.R.)

Sl.10

Ct.30

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Daspur** Police Station Case **No.267 of 2019** dated **29.07.2019** under Sections **143/149/323/325/307/354B/506/34** of the Indian Penal Code;

And

In re: Abul Hossain Mallik & Ors.

... petitioners.

Mr. Tushar Kanti Har

Mr. Somnath Chakraborty

... for the petitioners.

Mr. S.S. Imam

Mr. S. Kundu

...for the State.

This is an application for pre-arrest bail.

Learned advocate for the petitioners submits that the petitioners have been falsely implicated in this case, and they are the neighbours of complainant and over the issue of cultivation there has been a fighting/jostling and scuffling for which, accused persons are not individually responsible alone. More so, charge sheet has been submitted in this case, and custodial interrogation of the petitioners is not warranted in facts and circumstances of the case.

Learned advocate for the State raises objection against the prayer for pre-arrest bail. It is submitted that there are materials showing the extent of injury suffered by injured, and further that the *de facto* complainant obtained an order of injunction, from the learned Executive Magistrate, and in defiance thereof, in course of cultivation the petitioners seriously wounded the injured interfering with possession of complainant.

Having considered the submissions of both sides in context with the materials placed in record, and upon seeing the extent of injury sustained by the injured together with the completion of investigation leading to the submission of charge sheet, we are of the considered

view that custodial interrogation of the petitioners are not necessary.

Accordingly, we direct that in the event of arrest, the petitioners, namely, **1. Abul Hossain Mallik, 2. Masiar Mallick @ Masiyar Rahaman Mallik, 3. Mafijul Mallick, 4. Safijul Mallick, 5. Surap Ali Mallik, 6. Sk. Harun @ Sk. Taijul Ali, 7. Arap Mallik, 8. Masud Mallik @ Masud Ali Mallik, 9. Abdul Salam Mallick, 10. Angura Bibi, 11. Selina Khatun @ Selina Bibi and 12. Ambia Bibi @ Amabiya Bibi** shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, to the satisfaction of the arresting officer and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 with a further condition that the petitioners shall attend the learned trial court on all the dates, as fixed for hearing, and shall not intimidate the witnesses or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioners fail to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel the petitioners' bail without any further reference to this Court.

Accordingly, the application for anticipatory bail being CRM No.2843 of 2020, is allowed.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Subhasis Dasgupta, J.)

(Tapabrata Chakraborty, J.)