

11.03.2021.
Item No. 108
(Disposed)

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C.R.M. 10985 of 2020

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 17.12.2020 in connection with Balurghat Police Station Case No. 142 of 2020 dated 17.04.2020 (G. R. Case No. 341 of 2020) under Sections 341/323/325/326/34 and added Section 307 of the Indian Penal Code;

And

In the matter of : **Mala Debnath @ Malabati Debnath
(Basak) and another.**

... petitioners.

Ms. Busra Khatun.

...For the petitioner.

Mr. Arijit Ganguly,
Mr. Avik Ghatak.

...For the State.

Apprehending arrest in connection with Balurghat Police Station Case No. 142 of 2020 under Sections 341/323/325/326/34 and added Section 307 of the Indian Penal Code, the petitioners have filed the instant application for anticipatory bail.

It is uniformly submitted by the learned Advocate appearing for both the parties that the petitioner no. 2, namely, Totan Basak, has already been arrested in the meantime and, therefore, the prayer for anticipatory bail so far as the petitioner no. 2 is concerned has become infructuous. The learned Advocate for the petitioner presses the instant application for anticipatory bail for the petitioner no. 1 only.

It is submitted by the learned Advocate for the petitioner no. 1 that the petitioner no. 1 has been falsely implicated in connection with the aforesaid case. It is further submitted that the petitioner no. 1 has no active role to play for such unfortunate incident. It is also submitted that the

main accused has been granted bail by this Court in CRM 10983 of 2020 on 29th January 2021.

The learned Advocate for the State opposes the prayer for anticipatory bail. It is submitted that the name of the petitioner no. 1 will appear not only from complaint lodged with the police station but also the statement of the wife of the injured recorded under Section 161 of the Code of Criminal Procedure. It is further submitted that the anticipatory bail filed by the petitioner no. 1 before the learned Sessions Judge has been dismissed on 25th September 2020 and, therefore, the present application should also be dismissed.

After hearing the respective Counsels and upon perusal of the case diary produced before us, we find that the petitioner no. 1 along with other co-accused, except Narayan Debnath, stand on the same footing. One of the accused, namely, Namita Debnath has been granted anticipatory bail by the learned Sessions Judge on 25th September 2020 whereas the application for anticipatory bail filed by the petitioner no. 1 was rejected. It further appears that the main accused i.e. Narayan Debnath has been granted bail by this Court on 29th January 2021.

After perusing the statement of the wife of the injured and the complicity of the petitioner no. 1 indicated therein and the fact that the charge sheet has already been submitted, we do not think that custodial interrogation of the petitioner no. 1 is necessary.

Therefore, the petitioner no. 1 shall surrender before the learned Chief Judicial Magistrate at Balurghat, Dakshin Dinajpur, within a week from the date of obtaining the certified copy of this order and shall be enlarged on bail subject to furnishing a bond of Rs.10,000/- with two sureties of like amount, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate at Balurghat, Dakshin Dinajpur, with further condition that the

petitioner no. 1 shall attend on each day when the matter would be fixed before the learned Sessions Judge and the default on any solitary occasion without any justifiable cause may disentitle the petitioner no. 1 from getting privilege of anticipatory bail.

The application for anticipatory bail, being CRM 10985 of 2020, is thus **disposed of**.

(Harish Tandon, J.)

(Kausik Chanda, J.)