

21.01.2021
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**CRM 1 of 2021
(Through Video Conference)**

Apu Barua & Anr. Petitioners
Vs.
The State of West Bengal ... Respondent

Mr. Debajit Kundu, Advocate
...for the Petitioners. Present in Court.

Mr. Aditi Sankar Chakraborty, APP with
Mr. Tapan Bhattacharjee, Advocates
...for the State. Present in Court.

The present application has been filed for grant of pre-arrest bail to the petitioners who have been arrayed as accused in Cooch Behar Kotwali P.S. Case No.552 of 2020 dated 13.12.2020 registered under Sections 448/341/325/326/354/34 of the Indian Penal Code.

The learned counsel for the petitioners submitted that the complainant is real sister of the petitioners. Scuffle took place between the parties as she was found to be having illicit relationship with the head teacher in the same village. The incident allegedly took place on 10.11.2020. The matter was resolved immediately thereafter as the parties to the dispute are family members. The complaint was made one month after the alleged incident, on 13.12.2020. Even thereafter as well with the intervention of the respectables in the village, the dispute was resolved and the complainant stated that she does not wish to pursue her complaint even with the police.

On the other hand, the learned counsel for the respondent submitted that it is a case of grievous injury inflicted on the complainant by the petitioners after they trespassed into her house. There was a fracture of her right and left arm. Hence, the petitioners do not deserve the concession of pre-arrest bail.

After hearing learned counsel for the parties and considering the fact that there was delay of more than a month in filing the complaint to the police as the alleged incident took place on 10.11.2020 and the complaint was made on 13.12.2020, the complainant had not got herself examined in a government hospital immediately after the incident as there is no medical report placed before the court showing the kind of injuries suffered by the complainant in the alleged incident. Only prescription report of a private doctor has been produced who recommended X-ray.

In addition to that, it is the undisputed fact on record that the parties to the dispute are family members and the petitioners have placed on record the compromise entered into between them for resolving the dispute.

Keeping in view the aforesaid factual matrix, in our opinion, the petitioners deserve the concession of pre-arrest bail.

Accordingly, it is directed that in case of arrest, the petitioners shall be released on bail bonds subject to fulfillment of the condition of the arresting officer. In addition, the petitioners will abide by the conditions laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

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CRM 1 of 2021 is disposed of.

(Rajesh Bindal, J.)

(Saugata Bhattacharyya, J.)