

27.01.2021  
SL No.9  
Sh

**CRM 100 of 2021**

**Pema Tamang @ Pema Yonzon & Ors.. . . Petitioners.**  
**Vs.**

**The State of West Bengal... .. Respondent.**

Mr. Hillol Saha Poddar.

.. Advocate for the Petitioners present in Court.

M/s. A. Sarkar,  
Kallol Acharjee.

..Advocates for the State present in Court.

The present application has been filed for grant of pre-arrest bail to the petitioners, who are members of the Gorkhaland Territorial Administration ( G.T.A.), which has been constituted in terms of provisions of Gorkhaland Territorial Administration Act, 2012, in Gorubathan Police Station Case No.02/2021 dated 10-01-2021, registered under Sections 448/341/325/506/354/379/427/307/34 of the Indian Penal Code, 1860.

At present administration is being run by the Gorkhaland Territorial Administration (Binoy Tamang). The complainant belongs to Gorkha Jonomurti Morcha (Bimal Gurung).

The complaint filed to the police is totally false as no such incident happened. It is evident from the fact that there were allegations that the mother and wife of the complainant were man-handled and they suffered grievous injuries. Sections 325 and 307 IPC, have been invoked. But as per the medical report no injury has been suffered by them. Once the aforesaid allegations are found to be

false, other allegation will fall through. It is a politically motivated complaint by the members of the group, which is not in power.

It is further submitted that in terms of Section 164(5A) Cr.P.C., in case the allegations are under Section 354 I.P.C. the statement of the victim had to be recorded before the Magistrate. In the present case no such statement has been recorded. As the incident reported was totally false, the petitioners had also filed a complaint before the police on the same day. They were caused grievous injuries and even the Bolero vehicle, which they used was badly damaged.

On the other hand, learned counsel for the respondents submitted that the recovery of torn cloths of the wife and the mother of the complainant clearly established that there were efforts to outrage their modesty, after trespassing into the house. Mobile phone, gold ring and neckless which had been taken by the accused are yet to be recovered.

After hearing learned counsels for the parties and considering the fact that the allegations made under Sections 325 and 307 IPC are not established from the medical report. The wife and the mother of the complainant had not suffered any injury. There are allegations under Section 354 IPC. It was claimed that the petitioners had tried to outrage the modesty of the women and their cloths were also torn. But the fact remains that medical report does not support the allegation. The petitioners belong to the ruling section of Gorkhaland Territorial Administration.

Under these circumstances, we find this to be a fit case for grant of pre-arrest bail.

Accordingly, we direct that in the event of arrest, the petitioners shall be released on bail upon furnishing of bail bonds to the satisfaction of the arresting officer. The petitioner shall be bound by the conditions laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

The application for pre-arrest bail is accordingly, disposed of.

**( RAJESH BINDAL, J.)**

**( SAUGATA BHATTACHARYYA, J.)**









**( SAUGATA BHATTACHARYYA,J.)**