

08.07.2021

Court No.28
Item No. JB-03
nandy

(antibail – partly allowed)

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT
JALPAIGURI**

(Via Video Conference)

CRM 671 of 2021

In Re:- An application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure filed on 21.06.2021 in connection with Dinhata Police Station Case No. 248 of 2021 dated 11.05.2021 under Sections 447/325/326/307/354/34 of the Indian Penal Code.(G.R. Case No. 268 of 2021)

and

In the matter of: **Joddar Miah & Ors.**

.....Petitioners

Mr. Subhasish Misra, Advocate

Mr. Tanmay Basu, Advocate

.....for the Petitioners

Mr. Aditi Sankar Chakraborty, learned A.P.P.

Mr. Biswarup Roy, Advocate

.....for the State

Advocate-on-record of the petitioners undertake to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking the application is taken up for hearing.

Apprehending arrest in connection with Dinhata Police Station Case No. 248 of 2021 dated 11.05.2021 under Sections 447/325/326/307/354/34 of the Indian Penal Code, the petitioners have filed the instant application for anticipatory bail.

According to the petitioners, there was a property dispute between the neighbours on cultivation, which resulted into a hot altercation and scuffle and both the parties suffered injuries. It is further submitted that the petitioner no. 3 is aged about 70 years and the petitioner no. 4 is also an aged lady having physical

disability. The petitioner no. 1 is the son of petitioner no. 3 and 4 and the petitioner no. 2 is the wife of petitioner no. 1.

The State opposes the prayer for bail. It is submitted that the victim suffered grievous injury with a sharp weapon. She was admitted in the hospital and thereafter, narrated the incident to the police officer in her statement recorded under Section 161 of the Code of Criminal Procedure. The State also relies upon the injury report, which shows the nature of injury to be grievous.

After hearing the respective Counsel and after perusing all the materials disclosed before us, it is undeniable that the petitioner no. 3 is a septuagenarian and the petitioner no. 4 who is the wife of the said septuagenarian, is a physically handicapped lady. The investigation is still in progress as chargesheet has not been filed yet. So far as the complicity of the petitioner nos. 2, 3 & 4 in the alleged offence, is concerned, we are of the opinion that for the purpose of investigation their custodial interrogation is not necessary.

Accordingly, the prayer of anticipatory bail only in respect of the petitioner nos. 2, 3 & 4, namely **Nilifa Bibi, Ahammad Ali Miah** and **Jobeda Bibi** is **allowed**.

Accordingly, in the event of arrest, the petitioner nos. 2, 3 & 4, namely **Nilifa Bibi, Ahammad Ali Miah** and **Jobeda Bibi** shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand only) each, with two registered sureties of like amount each, to the satisfaction of the arresting officer of the concerned police station and on further condition as laid down under Section 438(2) of the Code of Criminal Procedure.

After considering the nature of injury sustained by the victim and the weapon used thereof, we do not think that petitioner no. 1 is entitled to an immunity from being arrested.

The prayer for bail in respect of petitioner no. 1, i.e. **Joddar Miah** is **rejected**.

The application for anticipatory bail being **CRM 671 of 2021** is thus **disposed of**.

(Harish Tandon, J.)

(Subhasis Dasgupta, J.)