

25.08.2021
Item no.23.
Court No.32.
AB
(Allowed)

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri**

(Via Video Conference)

CRM No.856 of 2021

In Re: An Application for Anticipatory Bail under Section 438 of the Code of Criminal Procedure filed on 17.08.2021 in connection with Dinhata Police Station Case No.371 of 2021 Dated 19.07.2021 under Sections 341/326/307/34 of the Indian Penal Code read with Sections 25(1A)/27 of the Arms Act and Sections 3/4 of the Explosive Substances Act

And

In the matter of : Bhola Barman & Others

.....Petitioners.

Md. Sarwar Jahan,
Mr. Feroze Hasan,
Mr. Debanshu Ghoraifor the Petitioners.

Mr. A. S. Chakraborty, Id APP,
Mr. Aniruddha Biswasfor the State.

The petitioners are apprehending arrest in connection with Dinhata Police Station Case No.371 of 2021 Dated 19.07.2021 under Sections 341/326/307/34 of the Indian Penal Code, Sections 25(1A)/27 of the Arms Act and Sections 3/4 of the Explosive Substances Act.

Our attention is invited to the order passed by a Coordinate Bench of this Hon'ble Court dated 19.08.2021 in this case whereby and whereunder the petitioners have been granted

interim protection to the effect that the petitioners shall not be arrested till Wednesday (25.08.2021). Such order was passed obviously based on the material on record.

Md. Sarwar Jahan, learned Advocate, invites our attention to various pages of the documents annexed to this petition at pages 14, 15, 16, 17 and 18 being the order passed by a Writ Court and it would appear that there is political vendetta arising out of the case and that the petitioners have been implicated for the offences under Sections 326/307 of the Indian Penal Code and so also under Sections 25(1A)/27 of the Arms Act and under Sections 3/4 of the Explosive Substances Act.

It is submitted that despite the protection order granted by Division Bench, the petitioner no.2 was taken into custody. On the contrary, learned Advocate for the State submits that the petitioner no.2 was not arrested in connection with this case ; rather, he was booked in different other cases.

Md. Sarwar Jahan, learned Advocate for the petitioners submits that in the last Panchayet General Election of 2018, the petitioner nos.1 to 3 and the wife of the petitioner no.4 namely Nargis Bibi along with others have been elected as members of Okrabari Gram Panchayat within Dinhata-I Panchayat Samity.

It is also submitted that majority member of said Gram Panchayat lost their confidence upon the existing Pradhan, accordingly in terms of provisions of Section 12 of the West Bengal Panchayt Act majority members including the petitioner

nos.1 to 3 and the wife of the petitioner no.4 namely Nargis Bibi served upon the concern authorities a Requisition Notice dated 16.07.2021 praying for removal of the existing Pradhan of said Gram Panchayat. It is pertinent to take note of that the said notice was duly signed by 11 elected members out of total 20 existing members of said Gram Panchayat.

It is submitted that the prescribed authority after receiving said notice dated 16.7.2021 vide memo no.2183 (11) dated 20.7.2021 asked the requisitionists to appear before the Prescribed Authority on 22.7.2021 for the purpose of verification of said requisition notice dated 16.7.2021, accordingly the requisitionists duly appeared before the Prescribed Authority and completed the necessary formalities.

It is also submitted that the Prescribed Authority being satisfied to the effect that said requisition notice dated 16.7.2021 fulfilled all the formalities and ingredients of Section 12 of the West Bengal Panchayat Act, 1973, the Prescribed Authority vide his Memo No.2196(20)/BDO/Dinhata-I/2021 Dated 22.7.2021 issued a notice convening a statutory meeting under section 12 of the West Bengal Panchayt Act for consideration of motion for removal of Pradhan of said Okrabari Gram Panchayet on the ground of lack of confidence fixing the meeting on 5.8.2021 at 12 noon.

Mr. A. S. Chakraborty, learned Additional Public Prosecutor assisted by Mr. Aniruddha Biswas for the State adverted to various documents in the case diary and to the

statement of the injured at page 36 and further to the injury report to submit that injured suffered a gunshot injury.

Prima facie, the injury appears to be on foot as per the report of the doctor. The seizure list reflects that the seizure list is in respect of one 9 mm empty cartridge was seized but without any seizure of improvised arms.

Having heard learned Advocate for both the parties and bearing in mind the nature and gravity of the injury not being life threatening and further in the back drop of the case, we are inclined to extend the protection as awarded by the Division Bench of this Hon'ble Court and admit the petitioners on anticipatory bail.

Accordingly, in the event of arrest, the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/-each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer and shall abide by the conditions laid down in Section 438(2) of the Code of Criminal Procedure until further orders and on further conditions that they will cooperate with the investigation and meet the Investigating Officer once in a week until further orders.

In case the petitioners fail to adhere to any of the conditions mentioned in Section 438(2) of the Code, the learned Court below shall be entitled to cancel the anticipatory bail without further reference to this Court.

The application for anticipatory bail being C.R.M. No.856 of 2021 is, thus, allowed.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Suvra Ghosh, J.)

(Shivakant Prasad, J.)