

01.12.2021

Item No. 1

Ct.No.1

dc./gsd

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

C.R.M. 1024 of 2021

(Via Video Conference)

In Re : An Application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with Kumargram P.S. Case No. 03 of 2021 dated 6.1.2021 under Sections 342/325/306/34 of the Indian Penal Code.

And

In the matter of : **Babul Das @ Shyamal Das & ors.**

... Petitioners.

Mr. Subhasish Saha

... for the petitioners

Mr. A. S. Chakraborty

Mr. Tapan Bhattacharjee

... for the State.

Learned Advocate appearing for the petitioners today at the inception prays for not pressing this application for anticipatory bail.

On the earlier date, the Learned State Counsel informed this Court that earlier two applications, being CRM 428 of 2021 and CRM 522 of 2021, were dismissed by concurrent Hon'ble Division Bench of this Court. Accordingly, by an order dated 30.11.2021, we directed for production of the records relating to both the applications.

Today, the records have been placed before us. We find that by an order dated 27.9.2021 in CRM 428 of 2021, the application was not pressed by the Learned Advocate for the petitioner. However, in CRM 522 of 2021 by an order dated 27.9.2021, the concurrent Hon'ble Division Bench after considering the materials produced before the Court including the case diary came to a conclusion and rejected the said application for anticipatory bail.

We are very much disturbed with the present application wherein at paragraph 1, the order of CRM 522 of 2021 has been suppressed and no information has been brought to the notice of this Court regarding the prayer of the petitioners being rejected earlier by the High Court. The affidavit has been affirmed by the petitioner no.3 who was the petitioner no.1 in CRM 522 of 2021. The manner in which the draft has been made in the first paragraph of the present application was with the purpose of deviating the focus of the Court from the earlier orders being passed and can be said to be fraud committed upon this Court. As such, prayer so advanced by the Learned Counsel appearing for the petitioners for not pressing the instant application, cannot be simply acceded to.

Accordingly, CRM 1024 of 2021 is dismissed as not pressed, subject to payment of costs of Rs.10,000/-, to the

State Legal Services Authority. Such costs shall be deposited within a week from this date.

In the absence of the deposit of the costs within a week from this date, the District Magistrate, Alipurduar shall recover the costs by way of applying the Bengal Public Demands Recovery Act.

Let a copy of this order be endorsed by the **Registry** to the District Magistrate, Alipurduar and the District Magistrate, Alipurduar shall file a Report of compliance which will be retained with the records by the **Registry**.

All parties shall act on the server copy of this order, duly obtained from the official website of the Hon'ble High Court Calcutta.

(Tirthankar Ghosh, J.)

(Subrata Talukdar, J.)