

13.12.2021
SL No.48
Court No.1
(SK)

***Circuit Bench of Calcutta High Court
At Jalpaiguri***

**CRM 1033 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 Cooch Behar Kotwali Police Station Case No.827 of 2021 dated 18.08.2021 under Sections 25/35 of the Arms Act, 1959.

And

In the matter of : **Ataur Rahaman & Ors.**

- Petitioners.

Mr. Hillol Saha Podder.

... For the Petitioner.

Mr. Abhijit Sarkar,

Mr. Biswarup Roy.

... For the State.

The learned Counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated. It is further submitted that no offending weapon was recovered from the petitioners.

The learned Counsel for the State, however, opposes the prayer for anticipatory bail. However, in all fairness the learned counsel for the State submits that the report filed by the ASI, Kotwali P.S., Cooch Behar dated December 02, 2021 which shows that the petitioners have criminal antecedents.

Considering the materials available on record and having regard to the fact that no offending weapon was recovered from the petitioners and the petitioners were falsely implicated on the basis

of the statement of the co-accused, which is inadmissible in evidence and moreover none of the petitioners have any criminal antecedents, we are inclined to grant anticipatory bail to the petitioners. As such, the prayer for anticipatory bail of the petitioners is allowed.

Accordingly, we direct that in the event of arrest the petitioners, namely, Ataur Rahaman, Fojdul Haque, Majibar Rahaman 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 on condition that the petitioners shall meet the Investigating Officer of the Case once in a week till the charge-sheet is submitted and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

The application for anticipatory bail, being CRM No.1033 of 2021 is, thus, disposed of.

The report filed by the A.S.I., Kotwali P.S., Cooch Behar dated December 02, 2021 be kept with the record.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Biswajit Basu, J.)

(Soumen Sen, J.)