

14.12.2021
SL No.30
Court No.1
AJ

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

**CRM 1047 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 Samuktala Police Station Case No.129 of 2021 dated 12.07.2021 under Sections 448/427/323/379/511/34 of the of the Indian Penal Code and added Section 436 of the Indian Penal Code, 1860.

And
In the matter of : **Ankur Sarkar.**
....petitioner.

Mr. Arnab Saha.
... For the Petitioner.

Mr. Aditi Shankar Chakraborty, Ld.A.P.P.,
Mr. Sourav Ganguly.
... For the State.

The learned Counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated. It is stated that the present complaint is the fall out of the dispute relating to the management and control of a tea garden amongst various groups. The learned Counsel has drawn our attention to an order passed by a co-ordinate Bench of this Court against another co-accused person dated 17th September, 2021 in C.R.M. 926 of 2021. However, in all fairness it is submitted by the learned Counsel for the petitioner that Section 436 of the Code of Criminal Procedure which is a non-bailable section was not added insofar as Mr. Om Prakash Upadhyay's case is concerned.

The learned Counsel for the State, however, opposes the prayer for anticipatory bail and draws our attention to the statement of independent eyewitnesses recorded under Section 161 of the Code of Criminal Procedure wherefrom it appears that the petitioner was named by such witness for involvement in the commission of alleged offence.

Mr. Arijit Ghosh, learned Counsel appears on behalf of the de-facto complainant and try to justify the stand taken by the State for not allowing the prayer for anticipatory bail.

Having considered the materials available on record, the seizure lists and the nature of extent of the complicity of the petitioner in the commission of the alleged offence and also having considered the fact that the involvement of the petitioner in the commission of the alleged offence has to be assessed at the appropriate stage, we are inclined to grant anticipatory bail to the petitioner.

As such, the prayer for anticipatory bail of the petitioner is allowed.

Accordingly, we direct that in the event of arrest the petitioner, namely, **Ankur Sarkar** shall be released on anticipatory bail upon furnishing a bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local to the satisfaction of the Arresting Officer and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on a further condition that the petitioner shall meet the Investigating Officer once in a week until further orders. The

petitioner shall not enter the jurisdiction of the Samuktala Police Station except for the purpose of meeting the Investigating Officer and attending the Court proceeding as and when required until further orders. The petitioner shall also submit the details of his address where he is presently residing to the concerned Investigating Officer.

The application for anticipatory bail, being CRM No.1047 of 2021 is, thus, disposed of.

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.)