

17.12.2021
Court No.01
Item No. 32

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

sg

**CRM 1164 of 2021
(Via Video Conference)**

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Dinhata Police Station Case No. 525 of 2021 dated 11.10.2021 under Sections 451/326/307/302/427/379/34 of the Indian Penal Code.

And

In Re: **Deldar Hosen**

Petitioner

Mr. Kallol Mondal

Mr. Sudip Guha

For the Petitioner

Mr. Abhijit Sarkar

Mr. Biswarup Roy

For the State

The learned Counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated due to political rivalry.

The learned Counsel for the State produces the case diary and opposes the prayer for anticipatory bail.

We have perused the case diary. Apparently, it appears that two persons, one of each of the two groups, died in a free fight. The involvement of the petitioner with regard to commission of alleged offence is to be assessed at the time of trial. Apparently, there is no direct evidence on record to show that the death was caused due to inflicting of any injury by the petitioner. However, this view is prima facie and only for the purpose of considering whether the petitioner is entitled to anticipatory bail. The evidence of individual witness recorded under Section 161 of the Code of Criminal Procedure does not directly implicate the petitioner. In view of the aforesaid, we are inclined to grant anticipatory bail to the petitioner.

Accordingly, we direct that in the event of arrest the petitioner, namely, **Deldar Hosen**, shall be released on 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 also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on condition that the petitioner shall meet the IO once in a week until further orders.

This order shall remain valid for six weeks from date, within which time the petitioner shall surrender and obtain regular bail from the learned Trial Court and the learned Trial Court shall decide the application without being influenced by the observations made by us in this order.

The prayer for anticipatory bail is allowed and CRM 1164 of 2021 is accordingly, 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)