

21.12.2021
SL No.20
Court No.1
AJ/SM

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

**CRM 1215 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 Bagdogra Police Station Case No.107 of 2021 dated 16.03.2021 under Sections 468/471/120B of the Indian Penal Code read with Sections 14/14A/14B of the Foreigners Act, 1946.

And

In the matter of : **Sri Imsu Yaden & Anr.**
... .petitioners.

Mr. Kalyan Kumar Chakraborty,
Mr. Ashok Halder,
Mr. Gyanendra Dewan,
Mr. Sandeep Rai.
... For the Petitioners.

Mr. Aditi Shankar Chakraborty, Ld. A.P.P.,
Mr. Biswarup Roy.
... For the State.

The learned Counsel for the petitioners submits that the petitioners are innocent and some of the co-accused persons have been granted bail.

The learned Counsel for the State, however, opposes the prayer for anticipatory bail and submits that the petitioners are kingpin in forging Aadhaar Cards and other documents to facilitate foreign nationals to take advantage of the citizenship of India. It is further submitted that the petitioners have not responded to the notice issued under Section 41A of the Code of Criminal Procedure.

However, the learned Counsel for the petitioners has disputed the submission that no notice under Section 41A of the Code of Criminal Procedure was served upon the petitioners.

Considering the materials available in the case diary and having regard to the nature and extent of the complicity of the petitioners in the commission of the alleged offence as given from the statements of some of the independent witnesses recorded under Section 161 of the Code of Criminal Procedure implicating the petitioner no.1 in the commission of alleged offence, we are not inclined to grant anticipatory bail to the petitioner no.1.

So far as the prayer of the petitioner no.2 **Marbela Yaden @ Noola Yaden** is concerned, we are inclined to allow the prayer for anticipatory bail to her.

Accordingly, we direct that in the event of arrest the petitioner no. 2 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 further condition that the petitioner no.2 shall not leave the jurisdiction of the Bagdogra Police Station without the express leave of the Investigating Officer.

This order shall valid for a period of eight weeks from date within which the petitioner no.2 shall obtain regular bail from Additional Chief Judicial Magistrate, Siliguri.

The application for anticipatory bail, being CRM No.1215 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.)