

22.12.2021
SL No.41
Court No.1
PJ/SK
(Allowed)

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

**CRM 1238 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 Alipurduar Police Station Case No. 418 of 2021 dated 16.11.2021 under Sections 341/353/427/34 of the Indian Penal Code, read with Section 3 of Prevention of Damage to Public Property Act, 1984.

And

In the matter of : **Dulal Krishna Das & Ors.**

- Petitioners.

Mr. Sourav Ganguly,
Mr. Kallol Nag

... For the Petitioners.

Mr. A. Sarkar,
Mr. Tapan Bhatta charjee

... For the State.

The learned Counsel for the petitioners submits that the petitioners have been dispossessed by the NHAI without making payment of adequate compensation for which reason there was an order passed by the learned single Judge on September 30, 2021.

However, it is submitted that NHAI has already taken possession of the land in question by dispossessing the petitioners.

The learned Counsel for the petitioners further submits that the petitioners have been falsely implicated in this case and is no way involved in the commission of the alleged offence.

The learned Counsel for the State, however, opposes the prayer for anticipatory bail and submits that the complainant is a constable of Alipurduar Police Station who was assaulted by the petitioners. It is alleged that the petitioners have vandalized the public properties and damaged Government vehicles while the police authorities were in the process of taking possession of the land in question on the basis of the requisition of NHAI.

Having considered the materials available in the Case Diary and the nature and extent of the complicity of the petitioners in the commission of the alleged offence and also taking into consideration the order passed in the writ proceedings, we are of the opinion that the custodial interrogation of the petitioners is not required.

Under such circumstances, the prayer for anticipatory bail of the petitioners is allowed.

Accordingly, we direct that in the event of arrest the petitioners, **Dulal Krishna Das, Prasanta Deb** and **Rakhal Chandra Barman**, 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 cooperate with the investigation and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

This order shall remain valid for six weeks from this date within which time, the petitioners shall surrender and obtain regular bail from the Learned Trial Judge. We make it clear that

the Learned Trial Judge while deciding the application for grant of regular bail shall take a decision independent of the observations made by us in this order.

The application for anticipatory bail, being CRM No.1238 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.)