

23.12.2021
SL No.30
Court No.1
PJ/SK
(Allowed)

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

**CRM 1255 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 Dinhata Police Station Case No. 204 of 2020 dated 19.06.2020 under Sections 341/325/307/379/34 of the Indian Penal Code.

And

In the matter of : **Anil Malakar & Ors.**

- Petitioners.

Mr. Sudip Guha

... For the Petitioners.

Mr. Ujjwal Luksom,
Mr. Aniruddha Biswas

... For the State.

The learned Counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated due to political rivalry. The learned Counsel for the petitioners draws our attention to an order passed by a Co-ordinate Bench of this Court on November 19, 2020 granting bail to the co-accused person.

The learned Counsel for the State, however, opposes the prayer for anticipatory bail and refers to the statement recorded under Section 161 CrPC and the injury report.

Having considered the materials available in the Case Diary and the nature of involvement of the petitioners in the commission of the alleged offence and also having regard to the fact that Uttam

Barman who has been mentioned by the petitioner in the statement recorded under Section 161 CrPC, who has been inflicted injury on the petitioner has been granted bail and the charge-sheet has been filed in the meantime the custodial interrogation of the petitioners is not necessary.

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

Accordingly, we direct that in the event of arrest the petitioners, **Anil Malakar, Aynal Mia and Ratan Roy Sarkar**, 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 must, however, attend on every date fixed for trial; and in the event of failing to do so, the Trial Court shall be at liberty to cancel the bail of the petitioners without any further reference to this Court 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.1255 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.)