

23.12.2021
SL No.39
Court No.1
(gc)

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

**CRM 1270 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 Kharibari Police Station Case No.74 of 2017 dated 09.04.2017 under Sections 302/34/120B of the Indian Penal Code read with Sections 25(1)(a)/27 of the Arms Act, 1959 adding Section 201 of the Indian Penal Code.

And

In the matter of : **Birendra Roy @ Yadav**

- Petitioner.

Mr. Joyjit Choudhury,
Mr. Ajay Singhal

... For the Petitioner.

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

The learned Counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated.

The learned Counsel for the State, however, opposes the prayer for anticipatory bail. Learned A.P.P., however, fairly submits that all the co-accused persons, excepting Bikky and the present petitioner, were all arrested and granted bail.

Having considered the materials available in the case diary and the nature and extent of involvement of the petitioner in the commission of alleged offence and also having regard to the fact that charge-sheet has already been filed, we are of view that custodial interrogation of the petitioner is not necessary. Hence, we are inclined to grant anticipatory bail to the petitioner. Accordingly, the prayer for anticipatory bail of the petitioner is allowed.

Accordingly, we direct that in the event of arrest the petitioner, namely, **Birendra Roy @ Yadav**, 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 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and with a further condition that the petitioner shall meet the I.O. once in a week until further orders and shall not enter the jurisdiction of Pradhan Nagar Police Station except for the purpose of meeting the Investigating Officer and/or attending the Court proceedings and the petitioner shall appear before the learned Additional District Judge, 1st Court, Siliguri on each and every date of hearing.

This order shall remain valid for four weeks from this date within which time, the petitioner shall surrender and obtain regular bail from the learned Additional District Judge, 1st Court, Siliguri. In the event, the petitioner surrenders and prays for bail, learned Additional District Judge, 1st Court, Siliguri shall consider such application on his own merits without being influenced by any observations made by us in this order.

The application for anticipatory bail, being CRM No.1270 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.)