

24.12.2021
SL No.11
Court No.1
(gc)

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

**CRM 1280 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 C.R. No-346/2021 arising out of O.R. No-07/NT of 2021-22 dated 10/08/2021 under Section 42/63 of the Indian Forest Act and read with Section 03 of the Prevention of Damage to Public Property Act 1984 Moraghat Range, under Police Station Banarhat.

And

In the matter of : **Mithu @ Samsuddin @ Samsuddin Miya
(Mithu) @ Samsuddin Miya**

- Petitioner.

Mr. Sudip Guha,

... For the Petitioner.

Mr. Nilay Chakraborty,

Mr. Aniruddha Biswas,

... For the State.

The learned Counsel for the petitioner submits that the petitioner is innocent and his name transpired during interrogation of the principal accused.

The learned Counsel for the State, however, opposes the prayer for anticipatory bail.

Considering the materials available on record and having regard to the fact that the name of the petitioner transpired during the interrogation of the principal accused, namely, Indra Kumar Roy, which is inadmissible in evidence and also having regard to the fact that the recovery has been made from Indra Kumar Roy, we are of the view that the custodial interrogation of the petitioner is not required. 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, **Mithu @ Samsuddin @ Samsuddin Miya (Mithu) @ Samsuddin Miya**, 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.

It is further directed that the petitioner shall meet the I.O. of the case once in a week until further orders and shall not leave the jurisdiction of Banarhat Police Station without the express leave of the Court of learned Chief Judicial Magistrate, Jalpaiguri.

This order shall remain valid for three weeks from date within which time, the petitioner shall surrender and obtain regular bail from the court of learned Chief Judicial Magistrate, Jalpaiguri. In the event, the petitioner surrenders and prays for bail, learned Chief Judicial Magistrate, Jalpaiguri 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.1280 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.)