

17 07.02.2022
(AD)
Court No.29
(Allowed)

C.R.M. (A)555 of 2022

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Haroa** P.S. Case No. **27** dated **17/01/2019** under Sections **323/325** of the Indian Penal Code and Section **3(1)(a)(s)** of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

And

In the matter of: Sri Tushar Kanti Ghosh

....petitioner.

Mr. Animesh Paul

...for the petitioner.

Mr. Saibal Bapuli, Ld. APP

Ms. Sayanti Santra

...for the State.

Petitioner seeks anticipatory bail.

Learned Advocate appearing for the petitioner submits that the petitioner was falsely implicated. He submits that the petitioner filed writ petitions complaining of illegal breach in the embankment. By reason of such breach, saline water was entering into the land belonging to the petitioner. He submits that the de facto complainant is one of the persons guilty of such act. In order to stave off such writ petition and proceedings, the present police complaint was made so as to falsely implicate the petitioner and to prevent the petitioner from proceeding with such writ petitions.

Learned Advocate appearing for the State draws the attention of the Court to the materials in the case diary and to the provisions of Section 18 of the Scheduled Castes and

Scheduled Tribes (Prevention of Atrocities) Act, 1989.

It is trite law that Section 18 of the Act of 1989 cannot be construed to be an absolute bar for granting bail in a case where the Court is of the view that the police complaint was maliciously filed or with *mala fide* intentions.

In the facts of the present case, the possibility of the present police complaint being made so as to falsely implicate the petitioner in order to put pressure upon the petitioner with regard to the pending writ petitions cannot be ruled out finally.

Considering the fact that the police submitted charge sheet and in view of the discussions above, we grant anticipatory bail to the petitioner.

Accordingly, we direct that in the event of arrest, the petitioner shall be released on bail upon furnishing a Bond of Rs.10,000/- with two sureties of like amount each to the satisfaction of the Arresting Officer and also 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 shall appear before the jurisdictional Court on the dates fixed for trial and pray for regular bail within four weeks from date.

The application for anticipatory bail being C.R.M.(A) 555 of 2022 is, thus, disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)