

03.03.2022

Serial no. 18

Dd

CRM (A) 1052 of 2022

In re : An Application for **anticipatory bail** under Section **438** of the Code of Criminal Procedure in connection with **Burdwan** Police Station Case No. **1460** of **2021** dated **23.12.2021** under Sections **341/323/324/506** of the Indian Penal Code and Section **3** of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.

-And-

In the matter of : **Sourav Ganguly & Anr.**

... Petitioners

Mr. Kallol Mondal,
Mr. Subhasis Bandopadhyay, Advocates
... ... For the Petitioners

Mr. Saswata Gopal Mukherjee, Id. PP
Mr. Abhra Mukherjee,
Ms. Manisha Sharma, Advocates
... ...For the State

Petitioners seek anticipatory bail.

Learned advocate appearing for the petitioners submits that the petitioners were falsely implicated. The first petitioner is a school teacher and the second petitioner is a medical officer. The first petitioner lodged a complaint against the family members of the de facto complainant on October 12, 2021. Thereafter, the de facto complainant approached the Court under Section 156(3) of the Criminal Procedure Code whereupon the present police case was initiated. He submits that the complaint is a counter blast to the earlier police complaint lodged by the petitioner no. 1 on October 12, 2021.

Learned advocate appearing for the State draws the attention of the Court to the contents in the case diary.

Although, the police are investigating the case under the provisions of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, the prohibition under Section 18 thereof is not absolute. In a given case where it is found that the incident alleged did not occur in a public place or the complaint was actuated by malice or is into mala fide intention, the Court is not powerless to grant anticipatory bail to the petitioners.

In the fact of the present case, there is a previous police complaint lodged by the petitioner no. 1 against the family members of the de facto complainant on October 12, 2021. Since the possibility that the present police complaint was lodged as a counter blast to the earlier police complaint lodged by the petitioner no. 1 cannot be discounted, we are of the view that the fetters under Section 18 of the Act are not attracted.

Considering the gravity of the offence and the involvement of the petitioners therein, we are inclined to grant anticipatory bail to the petitioners.

Accordingly, we direct that in the event of arrest the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand Only) each, with two sureties of like amount each, to the satisfaction of the arresting officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioners shall appear before the Court below and pray for regular bail within a period of four weeks from date and on further condition that the petitioners shall meet the Investigating Officer once in a month till completion of investigation.

Prayer for anticipatory bail of the petitioners is **allowed.**

CRM (A) 1052 of 2022 is **disposed of.**

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)