

09.03.2022

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Ct. No. 29

KAUSHIK

Allowed

C.R.M.(A) 1142 of 2022

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Shibpur** Police Station Case No. **26** of **2022** dated **31.01.2022** under Sections 506/34 of the Indian Penal Code, 1860 and Section 3 (X) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

And

In Re : Pratima Chowdhury & Anr.

..... petitioners

Mr. Soumya Basu Roy Chowdhury

....for the petitioners

Mr. Shiladitya Banerjee

....for the State

Petitioners seek anticipatory bail.

Learned advocate appearing for the petitioners submits that, the police complaint was lodged maliciously.

Learned advocate appearing for the State draws the attention of the Court to the First Information Report (FIR) and the statement of an independent witness recorded under Section 161 of the Code of Criminal Procedure (Cr.P.C.).

In the FIR, the complainant states that, the incident occurred in the Howrah Court premises. There is only one 161 Cr.P.C. statement of an independent witness, who was at the Howrah Hospital to obtain a fitness certificate where he saw the complainant to be in distress. At the request of the

complainant, he recorded his statement under Section 161 of the Cr.P.C.

In the 161 Cr.P.C. statement of such independent witness, he does not claim that he heard utterance of any words by the petitioner which are derogatory and hurts the complainant as to her caste. The Court is informed that the police filed charge-sheet.

Considering the materials in the case diary, the gravity of the offence and the involvement of the petitioners therein, we are prima facie of the view that there are no materials to invoke the provisions of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (Act of 1989). Consequently, the embargo of Section 18 of the Act of 1989 is not attracted.

In the facts and circumstances of the present case, we 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/- 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 condition that the petitioners shall appear before the jurisdictional court on every date fixed and pray for regular bail within a period of four weeks from date.

This application for anticipatory bail is, thus, allowed.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)