

16.03.2022
Sl. 29
Court No.29
sourav
(Allowed)

C.R.M. (A) 1268 of 2022

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on **11.03.2022** in connection with **Chandrakona** P. S. Case No. **02** of **2020** dated **01.01.2020** under Sections **323/354/379/188/506/34** of the Indian Penal Code and Section **3(1)(r)(s)(w)** of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.

And

In the matter of: **Ram Chandra Panja @ Ram Prasad Panja & Ors.**

....petitioners.

Mr. Amitabha Karmakar
Mr. Arup Kumar Bhowmick

...for the petitioners.

Mr. Navnil De

...for the State.

Petitioners seek anticipatory bail.

Learned advocate appearing for the petitioners submits that the petitioners were falsely implicated. He submits that the allegations relating to the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act relates to an incident occurring on a plot of land which is under the possession of the petitioners. There is a title suit pending in respect of such plot of land in which the husband of the defacto complainant is a party defendant.

Learned advocate appearing for the State draws the attention of the Court to the materials in the case diary. He refers to the statements of the defacto complainant recorded under Section 161 and 164 of the Criminal Procedure Code as also to the injury report.

In her statement recorded under Section 164 of the Criminal Procedure Code, the defacto complainant narrates an incident occurring on a private plot of land.

Section 18 of the Act of 1989 is not an absolute bar to the grant of a prayer for anticipatory bail. A prayer for anticipatory

bail can be allowed notwithstanding Section 18 of the Act of 1989 if the Court is of the *prima facie* opinion that the police complaint was lodged *mala fide* or that the incident did not occur at the public place derogatory words were altered.

In the facts of the present case, all the grounds cannot be discounted. There is a previous history of litigations between the private parties. There is a title suit pending in which the husband of the defacto complainant is a party defendant. The incident is alleged to be occurring at a place which is a private place. The complaint does not allege user of derogatory words. Therefore, whether that incident will attract the provisions of the Act of 1989 or not is debatable.

In such circumstances, considering the gravity of the offence and the involvement of the petitioners therein, 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/- (Rupees Ten Thousand Only) each, with two sureties of like amount each, 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 on condition that the petitioners will report before the Investigating Officer once in a month till the conclusion of the investigation and on condition that the petitioners shall appear every day before the jurisdictional Court on and from the date fixed for appearance of the accused and in default the jurisdictional Court will pass appropriate order to secure the presence of the petitioners in Court including cancelling the anticipatory bail granted without further reference to this Court.

Accordingly, the prayer for anticipatory bail of the petitioners is allowed.

C.R.M. (A) 1268 of 2022 is, thus, disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)

