

C.R.M. (A) 1998 of 2022

04.05.2022
Sl. 13
Court No.29
sourav
(Rejected)

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **New Township** Police Station Case No. **23** of **2022** dated **01.03.2022** under Sections **323/325/354/506/427/34** of the Indian Penal Code, 1860 read with Section **3(i)(r)(s)(u)** of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

And

In the matter of: **Dolly Bhattacharjee & Ors.**

....petitioners.

Mr. Soham De Dhara

...for the petitioners.

Mr. Swapan Banerjee

Mr. Anindya Sundar Chatterjee

Mr. Ranadeb Sengupta

...for the State.

Petitioners pray for anticipatory bail.

The police complaint, *inter alia*, involves the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Learned advocate appearing for the petitioner relies upon an order dated August 27, 2021 passed in CRM 2378 of 2021 (In the matter of **Tarun Kanti Bhowmick and Others**) and submits that the petitioner is able to overcome the restrictions under Section 18 of the Act of 1989.

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

In **Tarun Kanti Bhowmick and Others (Supra)** the co-ordinate bench found, in the facts of that case, that the dispute between the parties was over the construction of a boundary wall demarcating the land of the accused and the defacto complainant. In such circumstances, the co-ordinate bench proceeded to grant anticipatory bail to the petitioners therein.

In the facts of the present case, the complaints describes the nature of words used by the petitioners at public place in presence

of members of the public, as against the defacto complainant who is governed by the provisions of the Act of 1989.

We are, therefore, unable to return a finding that, facts constituting offences under the Act of 1989 are absent. Consequently, in view of the embargo under Section 18 of the Act of 1989, we are unable to grant anticipatory bail to the petitioners.

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

C.R.M. (A) 1998 of 2022 is, thus disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)

