

22.06.2022

Sl. 5

Court No.29

(AD)

(Allowed)

C.R.M. (A) 2305 of 2022

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Gaighata** Police Station Case No. **196** of **2022** dated **06.03.2022** under Sections **498A/406/417/34** of the Indian Penal Code and Sections **3/4** of the Dowry Prohibition Act and Sections **3(X)/3(XI)** of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

And

In the matter of: **Biswajit Saha & Anr.**

....petitioners.

Mr. Angshuman Chakraborty

...for the petitioners.

Mr. Joydeep Roy

Mr. Amanul Islam

...for the State.

Report as called for by the order dated June 6, 2022 filed in Court be taken on record.

Learned Advocate appearing for the petitioners submits that subsequent to a proceeding for nullity of marriage being filed at the behest of the first petitioner against the de facto complainant, the present police case was filed falsely implicating the petitioners. He submits that the allegations under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 were included in order to harass and falsely implicate the petitioners therein. He refers to the complaint in this regard. He submits that the alleged incident did not take place at a public place. Therefore, he contends that the provisions of Section 18 of the Act of 1989 are not attracted.

Learned Advocate appearing for the State refers to the

case diary.

There is a proceeding for nullity of marriage filed prior to any point of time. The police complaint was lodged by the de facto complainant subsequently.

The narration of the incident appearing from the police complaint suggests that the alleged incident under the Act of 1989 did not take place at a public place. Therefore, there are justifiable doubts as to whether the Act of 1989 stands attracted or not. That apart, there is an issue of the police complaint being filed *mala fide* as a counterblast to the proceedings for nullity of marriage.

In such circumstances, we deem it appropriate to enlarge the petitioners on anticipatory bail.

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 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) 2305 of 2022 is, thus disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)