

27.06.2022
Serial no. 12
[Dd]
(Anticipatory Bail)
(Allowed)

CRM (A) 2940 of 2022

In re : An Application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure in connection with **Jagatballavpur** Police Station Case No. **12** of **2022** dated **20.01.2022** under Sections **448/325/307/354/34** of the Indian Penal Code read with Sections **3(r)(s)** of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

-And-

In the matter of : **Surajit Mal & Ors.**

... .. Petitioners

Mr. Soumyajit Das Mahapatra, Advocate
... .. *For the Petitioners*

Mr. Antarikhya Basu, Advocate
... ..*For the State*

Petitioners pray for anticipatory bail.

Learned advocate appearing for the petitioners submits that there is at least five police complaints between the private parties. He submits that the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1956 are not attracted. He submits that the petitioners are members of the scheduled castes. Petitioner no. 2 applied for to obtain a scheduled caste certificate.

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

The alleged incident allegedly took place at a private locale. It is alleged that the public heard the alleged incident so far as the offences under the Act of 1989 are concerned. It is claimed by the petitioners that they belong to scheduled caste. There is an application made on behalf of the petitioner

no. 2 albeit subsequent to the police complaint, for a caste certificate.

The issue, therefore, whether the Act of 1989 at all is attracted or not is raised and should be decided at the trial.

The contention of the petitioners that they were falsely implicated and that the police complaint involving the Act of 1989 was lodged mala fide cannot be ruled out at this stage. The injury report of the victim which discloses that the injuries are simple in nature.

We are, therefore, of the view that the petitioners are able to overcome the restrictions under Section 18 of the Act of 1989. Moreover, police filed charge sheet. Consequently, 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 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.

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

CRM (A) 2940 of 2022 is **disposed of.**

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)