

07.07.2022

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Ct. No. 29

KAUSHIK

Allowed

C.R.M.(A) 3202 of 2022

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Bongaon** Police Station Case No. **283** of **2022** dated **19.03.2022** under Sections 447/323/325/354/500/506 of the Indian Penal Code, 1860 and Section 3 (X) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

And

In Re : Prasanta Kundu & Anr.

..... petitioners

Mr. Angshuman Chakraborty
....for the petitioners

Mr. Rudradipta Nandy
Mr. Iqbal Kabir
Ms. Sreeparna Das
....for the State

Petitioners pray for anticipatory bail.

Learned advocate appearing for the petitioners submits that, the petitioners were falsely implicated. He submits that, the petitioners are supporters of the candidate standing for the last assembly elections.

Learned advocate appearing for the State draws the attention of the Court to the statement recorded under Section 161 of the Code of Criminal Procedure (Cr.P.C.) of the neighbours as well as the injury report of the victim and his 161 Cr.P.C. statement.

There is an issue of Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Act of 1989) involved.

The First Information Report claims that the petitioners entered into the house of the de-facto complainant and uttered the offensive words with regard to his caste. The 161 Cr.P.C. statement of the neighbours claims that the petitioner allegedly uttered the offensive words in relation to the de-facto complainant on the road. The FIR was lodged on March 19, 2022. The 161 Cr.P.C. statements of the neighbours were recorded on March 20, 2022.

The issue as to whether the incident took place at a public place or not is a triable issue. The possibility of the petitioner being falsely implicated under the Act of 1989 cannot be overlooked at this stage.

In such circumstances, we are of the view that the petitioners are able to overcome the restrictions under Section 18 of the Act of 1989.

Considering the gravity of the offences, the nature of injury suffered by the victim, 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 further condition that the petitioners shall meet the Investigating Officer once a fortnight till the conclusion of the investigations and on condition that the petitioners shall appear on every date 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.

This application for anticipatory bail is, thus, allowed.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)