

CRM No.8746 of 2021

Via video conference

10.02.22

(S.R.)

Sl.197

Ct.32

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Belpahari** Police Station Case No.59 of 2021 dated 30/11/2021 under Sections 465/468/471/420 of the Indian Penal Code and Section 10 of the West Bengal Scheduled Caste and Scheduled Tribe (Identification) Act;

And

In re: Apurba Karmakar

... petitioner.

Mr. Shibaji Kumar Das

Mr. Soumyajit Das Mahapatra

... for the petitioner.

Mr. Madhusudan Sur, APP

Mr. Dipankar Pramanik

...for the State.

Mr. Das, learned advocate appearing for the petitioner submits that the petitioner has been implicated on a purported plea that though he belongs to OBC Category, he has illegally obtained a Scheduled Caste Certificate. The ingredients of Section 468 are not attracted against the petitioner. Answering our query, he submits that the petitioner's caste certificate has, however, been cancelled by the concerned authority and such order of cancellation is pending adjudication in a writ petition preferred by the petitioner, who is presently posted as Joint Block Development Officer, Ranigunj, Paschim Bardhaman. Section 41A notice was issued to the petitioner and he has duly complied with the same. In the said conspectus, his custodial interrogation may not be necessary and he may be granted anticipatory bail on any stringent condition.

Mr. Sur, learned Additional Public Prosecutor appearing for the State opposes the petitioner's prayer and draws our attention to several documents in the case diary and submits that the investigation is still continuing and as such, his custodial interrogation is necessary.

Heard the learned advocates and considered the materials in the case diary.

Prima facie, the ingredients of Section 468 of the Code are not attracted against the petitioner. The issue of cancellation of the petitioner's caste certificate is pending adjudication before the Writ Court. The petitioner is a government servant and, *prima facie*, there is no possibility that he would flee from justice or delay the trial by abscondence. In view thereof, we are of the opinion that custodial interrogation is not necessary.

Accordingly, we direct that in the event of arrest the petitioner will be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, 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 with a further condition that the petitioner shall cooperate with the investigation.

It is further directed that the petitioner shall not intimidate the witnesses or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner fails to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel his bail without any further reference to this Court.

Needless to say, the observations made in the present order are only for the purpose of anticipatory bail and the same would not affect the trial in any manner.

The application for anticipatory bail being CRM No.8746 of 2021 is, accordingly, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)