

01.12.2022
Serial no.39
Aloke

CRM (A) 5603 of 2022

In re : An Application for Anticipatory Bail under Section 438 of the Code of Criminal Procedure in connection with Serampore Police Station Case No. 351 of 2022 dated 26.09.2022 under Sections 323/354/427/506/34 of the Indian Penal Code and Section 3 of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989.

-And-

In the matter of : **Smt. Mita Bakshi & Anr.**

... .. Petitioners

Mr. Sudipta Kr. Bose, Advocate

Mr. Subhankar Das, Advocate

... .. For the Petitioners

Mr. Shiladitya Banerjee, Advocate

... ..For the State

Petitioners seek anticipatory bail.

Learned Advocate appearing for the petitioners submits that the petitioners were falsely implicated. There are a long pending civil disputes between the private parties. The police complaint was lodged due to the prior enmity.

Learned Advocate appearing for the State draws the attention of the Court to the contents of the first information report and the statement recorded under Section 164 of the Code of Criminal Procedure and as also the response received by the police with regard to the veracity of the caste certificate.

There are pre-existing proceedings in between the private parties. The existence of prior enmity cannot be ruled out.

The police complaint does not speak of any material to attract the provisions of Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989.

The statement recorded under Section 164 of the Code of Criminal Procedure suggest violations of the provisions of the Atrocities Act. The police sent the caste certificate of the de facto complainant for verification with the appropriate authorities.

By a letter dated October 19, 2022, the Sub-Divisional Officer, Serempore, Hooghly, stated that there was no office

records of the caste certificate claimed to be that of the de facto complainant.

In such circumstances, we are of the view that the provisions of Section 18 of the Atrocities Act are not attracted since, the Atrocities Act itself are yet to be attracted in view of the absence of the caste certificate.

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 condition that the petitioner no. 2 will report before the Investigating Officer once in a month till the conclusion of the investigation and petitioner no. 1 will cooperate with the investigation till the conclusion of the investigation and on further 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.

Prayer for anticipatory bail of the petitioners is allowed.

CRM (A) 5603 of 2022 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)