

Circuit Bench of Calcutta High Court at Jalpaiguri

CRM (A) 23 of 2022

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Dinhata** Police Station Case No. **525** of **2021** dated **11.10.2021** under Sections **451/326/307/302/427/379/34** of the Indian Penal Code read with Sections 25(1-A)/27 of the Arms Act.

- A n d -

In the matter of : Babul Hossain & Ors.

.... Petitioners.

Mr. S. Guha,

... For the Petitioners.

Mr. Aditi S. Chakraborty, Ld. APP,
Mr. S. Ganguly,

... For the State.

The petitioners say that the incident was a free fight between two groups of neighbours. One person belonging to each group died. The accused no. 1 has been granted anticipatory bail by a Coordinate Bench by an order dated December 17, 2021 in CRM 1164 of 2021. The present petitioners stand on exactly the same footing as that person. They should also be granted anticipatory bail. They will fully cooperate with the Investigating Officer.

Learned Counsel for the State strongly opposes the prayer for anticipatory bail. He draws our attention to statements of witnesses in the case diary and the seizure list.

We have considered the facts and circumstances of the case. Prima facie, it appears that the present petitioners are

similarly circumstanced as the person who was granted anticipatory bail in CRM 1164 of 2021.

Purely on the ground of parity, we are inclined to allow the prayer for anticipatory bail of the present petitioners subject to the petitioners fully cooperating with the Investigating Officer.

Accordingly, in the event of arrest, the petitioners, namely, **Babul Hossain, Mintu Rahaman, Jahangir Alam, Jahidul Haque and Sapikul Ali**, shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer and shall meet the Investigating Officer once in a week until further orders. The petitioners shall abide by the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

In the event the petitioners fail to adhere to any of the conditions stipulated in Section 438(2) of the Code of Criminal Procedure, the learned Court below will be at liberty to cancel the anticipatory bail without further reference of this Court.

The application for anticipatory bail being CRM (A) 23 of 2022 is, thus, **allowed**.

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

(**Aniruddha Roy, J.)**

(**Arijit Banerjee, J.)**