

02.03.2022

COURT : 01
ITEM : 35
MATTER : 438
STATUS : ALLOWED
TRANSCRIBER : nandy

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

CRM (A) 62 of 2022

In Re:- An application for **anticipatory bail** under section **438** of the Code of Criminal Procedure filed on January 14, 2022 in connection with Rajganj Police Station Case No. 459 of 2021 dated 29.10.2021 under Sections 341/363/325/328/307/34 of the Indian Penal Code. (G.R. Case No. 5854 of 2021)

And

In the matter of : **Chandan Thakur**

...Petitioner

Ms. Rima Sarkar, Advocate

Ms. Sidhi Sethia, Advocate

...for the Petitioner

Mr. Abhijit Sarkar, Advocate

Mr. Tapan Bhattacharjee, Advocate

...for the State

Apprehending arrest in connection with Rajganj Police Station Case No. 459 of 2021 dated 29.10.2021 under Sections 341/363/325/328/307/34 of the Indian Penal Code, the petitioner has filed the instant application for anticipatory bail.

According to the petitioner while riding on a motorcycle with the son of the de facto complainant they met with an accident but subsequently the de facto complainant lodged an FIR much after the said incident implicating the petitioner therefor.

The learned Advocate appearing for the petitioner submits that the aforesaid FIR is lodged against the petitioner by the de facto complainant to take revenge against the unreasonable demands when there is no reality to the same. It is further submitted that, in fact, the petitioner also suffered grievous injuries in the said accident which would be corroborated by the medical documents annexed to the instant application filed before this Court.

The State opposes the prayer for bail and submits that the FIR was lodged after considerable lapse of time since the date of the accident but the statement of the victim boy recorded under Section 164 of the Code of Criminal Procedure is suggestive of the conduct attributable to the present petitioner.

After hearing the respective Counsel and on perusal of the materials in the case diary including the statement of the boy recorded under Section 164 of the Code of Criminal Procedure, we do not find direct complicity of the petitioner in the alleged assault on the boy. Furthermore, from the documents annexed to the instant application, we find that the petitioner also suffered grievous injury and was treated in various hospitals which raises a presumption of an accident.

In view of the above, we do not think that custodial interrogation of the petitioner is necessary.

As such, the prayer for anticipatory bail is **allowed**.

Accordingly, in the event of arrest the petitioner namely **Chandan Thakur** shall be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of Rs.5,000/- each, one of whom must be local to the satisfaction of the arresting officer and on condition as enshrined under Section 438(2) of the Code of Criminal Procedure and on further condition that the petitioner shall meet the Investigating Officer as and when called for.

The application being **CRM (A) 62 of 2022** is accordingly **disposed of**.

(Harish Tandon, J)

(Rabindranath Samanta, J)

