

30.01.2023

Serial no. 16

[Dd]

(Anticipatory bail)

(Rejected)

CRM (A) 362 of 2023

In re : An Application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure in connection with **Kharagpur (Local)** Police Station Case No. **1095** of **2022** dated **18.12.2022** under Sections **341/323/509/34** of the Indian Penal Code read with under Section 3(1)(r)(s)(w) (ii)/3(2)(v-a) of SC & ST (Scheduled Caste & Scheduled Tribe) Act, 1989.

-And-

In the matter of : **Bijay Prakash Yadav & Ors.**

... ..Petitioners

Mr. Pravas Bhattacharyya, Advocate

... .. For the Petitioners

Mr. Navanil De, Advocate

... ...For the State

Petitioners pray for anticipatory bail.

Learned advocate appearing for the petitioners submits that the petitioners were falsely implicated. The provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are not attracted. The incident did not take place within a public place.

Learned advocate appearing for the State draws the attention of the Court to the provisions of the Act of 1989. He submits that the provisions of Section 3(2)(va) are attracted. He refers to the statements recorded under Section 164 of the Criminal Procedure Code.

Two persons recorded statements under Section 164 of the Criminal Procedure Code. Both of them corroborated each other.

Apparently, the incident took place over an immovable property belonging to a person of the Scheduled Caste. The case diary contains the Scheduled Caste Certificate.

In the facts of the present case, it cannot be said with certainty that the place of occurrence is not within public view.

Consequently in view of the bar under Section 18 of the Act of 1989, we are unable to grant anticipatory bail to the petitioners.

Prayer for anticipatory bail of the petitioners is **rejected**.

CRM (A) 362 of 2023 is dismissed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)