

09.06.2023
SL No.52
Court No.1
(gc)
(Allowed)

***Circuit Bench of Calcutta High Court
At Jalpaiguri***

CRM (A) 308 of 2023

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed in connection with Kalimpong Police Station Case No.223 of 2017, dated 20.08.2017 under Sections 120B/121/121A/122/326/307/302/427 of the Indian Penal Code read with Sections 3 & 4 of the Explosive Substances Act; Sections 3 & 4 of the Prevention of Damage to Public Property At, 1984 and Sections 8/9/15A/15B of the West Bengal Maintenance of Public Order Act.

And

In the matter of : **Dawa Lepcha**

- Petitioner.

Mr. Jagriti Mishra,
Mr. Subham Gupta,
Mr. Rajkumar Mitra,

... For the Petitioner.

Mr. Aditi Shankar Chakraborty, Ld. A.P.P.,
Mr. Sourav Ganguly,
... For the State.

The learned Counsel for the petitioner submits that the petitioner is innocent and seven co-accused persons similarly placed have been granted bail by the Trial Court.

The learned Counsel for the State submits that an application has been filed by the learned A.P.P. for withdrawal of the case pursuant to the communication raised from the Legal Remembrancer & Ex-officio Secretary to the Government of West Bengal, Judicial Department dated 25.02.2021 and in the event the said case is allowed to be withdrawn then the issues raised in this application become infructuous.

However, the learned Counsel for the petitioner has drawn our attention to the order passed by the learned Trial Judge, Kalimpong on 27th July, 2022 where the application filed by the learned A.P.P. for withdrawal of the case was rejected and a date was fixed for execution of warrant. The learned Trial Judge decided the matter on the basis of the decision of the Hon'ble Supreme Court in ***Rajendra Kumar Jha Etc. Vs. State Through Special Police Establishment & Ors.*** reported at **1980 (3) SCC 435** and ***Rahul Agarwal Vs. Rakesh Jain & Anr.*** reported at **2005 (2) SCC 377**.

In view of the aforesaid background, the prayer for bail is required to be considered.

It is not in dispute that the petitioner is standing on the same footing as that of the seven co-accused persons who have been granted bail by the Trial Court.

The charge-sheet has already been filed.

Accordingly, we direct that in the event of arrest, the accused/petitioner, namely, **Dawa Lepcha**, be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of like amount each, to the satisfaction of the arresting officer and also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioner shall meet the Investigating Officer once in a week until further orders and shall appear before the court below and pray for regular bail within four weeks from date and shall not

leave the jurisdiction of the jurisdictional Court without express leave of the Court.

The application for anticipatory bail is, thus, disposed of.

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

(Raja Basu Chowdhury, J.)

(Soumen Sen, J.)