

31.08.2023
Item no.9
Court No.01
P.P./S.D.

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

CRM (A) 706 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure;

And

In Re : Abdar Mia @ Abdar Rahaman & Ors.

.... Petitioners

Mr. Satyam Sarkar

Mr. Haider Ali

....for the petitioners

Mr. Aditi Shankar Chakraborty, APP

Mr. Subhasish Misra

Mr. Chattu Roy

..... for the State

Apprehending arrest in connection with Sitalkuchi Police Station Case No.152 of 2023 dated 26.05.2023 under Sections 302 and 109 of the Indian Penal Code, 1860, the present application has been preferred.

Mr. Sarkar, learned advocate appearing for the petitioners submits that the petitioners have been falsely implicated due to prior enmity. The principal accused is one Serajul Mia, who is already in custody. The petitioners permanently reside at the address given in the cause title and there is no possibility that they would flee from justice. In the said conspectus, custodial interrogation may not be necessary

more so, when upon completion of investigation chargesheet has been submitted.

Mr. Misra, learned advocate appearing for the State, however, disputes and denies the contention of the petitioners and draws our attention to several documents in the case diary including seizure list, the contents of the complaint and the statement of the daughter-in-law of the deceased, as recorded under Section 164 of the Cr.P.C.

We have heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

Prima facie, no specific overt act has been attributed to the petitioners. Taking note of the fact that principal accused is already in custody and as upon completion of investigation chargesheet has already been submitted, we are of the opinion that the petitioners' custodial interrogation is not necessary.

Accordingly, we allow the prayer for anticipatory bail of the petitioners.

We direct that in the event of arrest, the petitioners namely, **Abdar Mia @ Abdar Rahaman, Rahul Mia and Rafikul Mia @ Rapikul Mia** be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand Only) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer and subject to the conditions as laid down under Section 438(2) of the Code of Criminal

Procedure, 1973 with a further condition that they shall meet with the Officer-in-Charge of Sitalkuchi Police Station once a week until further orders and they shall not enter into the vicinity of the house of the deceased.

It is further directed that the petitioners shall not tamper with the evidence or intimidate the witnesses.

The application for anticipatory bail CRM (A) 706 of 2023 is disposed of.

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

(Lapita Banerji, J.)

(Tapabrata Chakraborty, J.)