

JPD-47
Ct No.01
14.09.2023
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction

CRM (A) 755 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 06.09.2023 in connection with New Jalpaiguri Police Station Case No. 772 of 2023 dated 08.08.2023 under Sections 341/315/34 IPC.

And

In the matter of: Jadab Barman @ Yadab Barman and others
.... petitioners

Mr. Biswarup Roy
... for the petitioners

Mr. Tapan Bhattacharjee,
Ms. Sukanya Adhikary
... for the State

Mr. Partha Pratim Sarkar,
Mr. Sandip Guha Roy
... for the *de facto* complainant

1. Learned counsel for the petitioners submits that the primary allegations are against the petitioner no.2-Jay Barman. Allegedly the petitioner no. 2 kicked the victim, upon which a miscarriage took place, since the victim was carrying at the relevant point of time. However, the allegations are denied and it is submitted by the petitioners that the same was a counterblast of a prior complaint by the petitioners against the victim.
2. Learned counsel for the *de facto* complainant reiterates the fact that the allegations are clinching against the petitioners. That apart, in view of the two months old fetus in the womb of the

victim having died due to the assault, it is submitted that the nature of the offence is grievous.

- 3.** Learned counsel for the State opposes the prayer for anticipatory bail and submits that there are serious allegations against the petitioners. Moreover, it is established that an abortion had to be carried out on the victim.
- 4.** Upon query of court, it is disclosed that the time of abortion is contemporaneous with the date of the alleged offence, which casts sufficient doubt on the petitioners. Although the petitioners seek to distinguish the case of the other petitioners from petitioner no.2, the latter having allegedly kicked the victim in the stomach, we do not find anything to distinguish between the allegations, since it was a joint assault on the victim as per the complaint.
- 5.** Thus, we are inclined not to grant anticipatory bail to the petitioners.
- 6.** Accordingly, CRM (A) 755 of 2023 is dismissed with liberty to the petitioners, however, to approach the appropriate court praying for regular bail.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)