

27.09.2023.

Item No. 38

Court No.1

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*CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE*

C.R.M. (A) No. 801 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 filed on 12.09.2023 in connection with Dinhata Women Police Station Case No. 52 of 2023 dated 18.05.2023 under Sections 448/376/511/323/324/307/34 of the Indian Penal Code.

And

In the matter of: **Ashrab Ali @ Asraf Ali.** ...petitioner

Mr. Subhasish Misra,
Mr. Swarup Das,
Mr. Satyajit Paul. ...For the petitioner

Mr. Ujjwal Luksom,
Mr. Tapan Bhattacharjee,
Mr. Chattu Roy.For the State

1. The prayer for anticipatory bail is made on the ground that the complainant has not specifically named the petitioner in the FIR of having attempted to commit the offence under Section 376 of the Indian Penal Code. He has been named as a person, who may not have participated in the assault on the date and time.

2. The other accused persons have been granted anticipatory bail by the Court below except the petitioner and another person.

3. This Court is not in agreement with the views expressed by the learned Sessions Judge, Cooch Behar in his order dated 15th June, 2023. A plain reading of the

complaint indicates to the contrary. The petitioner was not directly involved as per the victim's own version in the offence under Section 376 of the Indian Penal Code.

4. In that view of the matter, the prayer for anticipatory bail of the petitioner is allowed.

5. It is directed that in the event of arrest, the petitioner shall be released on bail to the satisfaction of the arresting officer upon furnishing Bond of Rs.10,000/- with two sureties of Rs.5,000/- each, one of whom must be local subject to the condition that the petitioner shall co-operate with the investigation as and when necessary until further order of this Court.

6. This order is subject to the conditions laid down in sub-section (2) of Section 438 of the Code of Criminal Procedure.

7. The Case Diary be returned.

8. C.R.M. (A) No. 801 of 2023 is allowed and disposed of.

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

(Supratim Bhattacharya, J.) (Rajasekhar Mantha, J.)