

05.10.2023.

Item No. 51

Court No.1

ap

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

C.R.M. (DB) No. 621 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure, 1973 filed on 26.09.2023 in connection with New Jalpaiguri Police Station Case No. 671 of 2023 dated 08.07.2023 under Sections 341/323/326/307/354/34 of the Indian Penal Code.

And

In the matter of: **Enamul Hoque @ Anamul Hoque & Anr.**
...petitioners.

Mr. Momenur Rahman,
Mr. Bikash Singha. ...For the petitioners

Mr. Tapan Bhattacharjee,
Mr. Dhiman Sil.For the State

1. The application for bail is canvassed on the ground that the petitioners are in custody for 87 days.

2. It is case of the prosecution that the complaint was registered on 8th July, 2023. The dispute occurred when according to the petitioners, a supporter of the petitioners switched over the political alliance and joined a political party. The petitioner no.1 was contesting in the recent Panchayat Election as an independent candidate.

3. It is alleged that the complainant is the Booth President of a particular political party whose candidate was also in the fray for the same Panchayat. It is further alleged that one of the injured persons was a supporter of the petitioners.

4. Counsel for the State has vehemently opposed the prayer for bail of the petitioners. It is submitted that the charge-sheet is still pending in the matter and the injuries are grievous in nature. It is further submitted that the petitioners along with other persons had attacked the persons standing in a queue in front of a polling booth to cast their vote and hence the charges.

5. This Court notes that the petitioners have been in custody for about 87 days, the statutory period has already expired. A number of other accused persons in the FIR are absconding.

6. The investigation appears to have been hindered by absconding persons. The petitioners have co-operated with the Investigating Agency. This Court further notes that a fracture on a middle finger of the victim has been termed by the Doctor is a grievous injury. The same is difficult to accept. There are, however, injuries to other persons.

7. In so far as the allegation that the petitioners are the violent persons is an omnibus allegation. No documents are produced in support thereof. The same cannot stand in the way of Article 21 of the Constitution of India or concept of liberty under Section 438 of the Code of Criminal Procedure in the peculiar facts and circumstances of the case. The Panchayat Elections in the some pockets in the State have admittedly witnessed a substantial degree of violence.

8. In the facts and circumstances of the case and given the fact that the petitioners are in custody for more than 87 days, there is no further need for custodial interrogation of the petitioners. This Court is inclined to enlarge the petitioners on bail.

9. Let the petitioners be released on bail upon furnishing bond of Rs.10,000/- each with two sureties of Rs.5,000/- each, one of whom must be local, to the satisfaction of the Learned Chief Judicial Magistrate, Jalpaiguri.

10. It is further directed that after release, the petitioners shall away from the jurisdiction of the New Jalpaiguri Police Station except for the purpose of attending the Court proceedings and they shall meet the Investigating Officer of the case once in a week, until submissions of the charge-sheet. It is also directed that after release, the petitioners shall not threaten or intimidate any of the witnesses or interfere with the investigation.

11. We make it clear that if the petitioners fail to comply with any of the conditions mentioned hereinabove, the prayer for bail of the petitioners stand automatically cancelled without any further reference to this Court.

12. C.R.M. (DB) No. 621 of 2023 is, thus, disposed of.

13. 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.)

