

October 13, 2023.

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**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM(A) 887 of 2023

In re : An application for bail under Section 438 of the Code of Criminal Procedure, 1973 filed on 10.10.2023 in connection with Falakata Police Station Case No. 428 of 2023 dated 26.08.2023 under Sections 313/506/34 of the IPC.

In the matter of: Ofiuddin Mia @ Afiuddin Miya & Ors.
.... Petitioners.

Mr. Kalipada Das

... for the Petitioners.

Mr. Ujjwal Luksom,
Ms.Namrata Das

... for the State.

Heard learned Advocates appearing for the parties.

This is an application for anticipatory bail under Section 438 of the Cr.P.C. Learned Advocate appearing for the petitioners submits that the present petitioners have been falsely implicated in this case and benefit under Section 438 of the Cr.P.C. can be extended to the present petitioners.

Learned Advocate appearing for the State vehemently opposes the prayer for pre-arrest bail of the petitioner.

Perused the case diary and other materials on record including the medical report and the statement of the witnesses recorded under Section 161 Cr.P.C. On such hearing and on perusal it transpires that main allegation is against one co-accused person, namely Fatama Khatun, who

is not the petitioner herein. There is no specific allegation against the present petitioners.

Considering these aspects and upon hearing the learned Advocates for the respective parties, we are of the view that the custodial interrogation of the present petitioners is not necessary and the petitioners are entitled to get the benefit under Section 438 Cr.P.C.

In the event of arrest, the petitioners may find 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 Ld. ACJM, Alipurduar subject to the condition that the petitioners shall co-operate with the Investigating Officer and shall not leave the jurisdiction of the local Police Station without the leave of the concerned court. The petitioners will also abide by the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

The application being CRM(A) 887 of 2023 is disposed.

(Partha Sarathi Chatterjee, J.)

(Md. Nizamuddin, J.)