

AD-15
Ct No.01
Jalpaiguri
30.01.2023
TN

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

CRM (DB) 456 of 2022

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with Mathabhanga Police Station Case No. 380 of 2020 dated 17.09.2020.

And

In the matter of: Swagatam Sarkar and others

.... Petitioners

Mr. Gobinda Saha,
Mr. Tamal Kumar Sen,
Ms. Ria Paul

... for the petitioners

Mr. Nilay Chakraborty,
Mr. Biswarup Roy

... for the State

The petitioners submit that the petitioners have surrendered, subsequent to a refusal of a previous anticipatory bail application by the petitioners before a coordinate Bench, which granted liberty to the petitioners to pray for bail upon surrendering.

It is submitted that several allegations, including under Section 302 of the Indian Penal Code, have been clubbed against the petitioners and several others. It is submitted that out of the 19 FIR named persons, 18 were apprehended. However, subsequently 8 of the accused persons were enlarged on bail.

It is submitted that only one of the said persons, who were enlarged on bail, was so enlarged *inter alia* on the ground that he was a student. However, even the person who was alleged to be carrying the weapon-in-question was enlarged on bail.

Learned counsel for the State opposes such prayer.

Upon hearing learned counsel for the parties, it is evident that there is no special footing on which the 8 persons, who have already been granted bail, stand vis-à-vis the present 7 accused persons. In the absence of any differentiating criteria between the said 8 persons and the present petitioners, the petitioners are entitled to bail on the ground of parity and in consonance with the concept of equality under Article 14 of the Constitution of India.

Accordingly, CRM (DB) 456 of 2022 is allowed, thereby granting bail to the present petitioners on condition that each of the said petitioners shall furnish bonds of Rs.10,000/-, with two sureties of like amount each, who may be common in case of the petitioners, to the satisfaction of the learned Additional Chief Judicial Magistrate, Mathabhanga, Cooch Behar.

The petitioners shall attend the trial on every date of trial and shall not leave the jurisdiction of the trial court during the entire period of trial.

Moreover, the petitioners shall not make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such persons from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)