

18.11.2023

Serial no.2

Court No.1

(CHC)

(Allowed)

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (A) 890 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with G.R. Case No.3657 of 2023 arising out of **Banarhat** Police Station Case No. **184** of **2023** dated **13/07/2023** under Sections **376(2)(g)/511/354B/436/506/34** of the Indian Penal Code.

And

In Re : Hirak Roy & ors.

..... petitioners

Mr. Sourav Kar, Advocate
....for the petitioners

Mr. Nilay Chakraborty, Advocate
Mr. Sagnick Sankar Sikdar, Advocate
....for the State

Petitioners pray for anticipatory bail.

Learned advocate appearing for the petitioners submits that, the petitioners were falsely implicated due to political rivalry. The complaint was lodged prior to the Panchayat Election of 2023.

Learned advocate appearing for the State draws the attention of the Court to the materials in the Case Diary. He draws the attention of the Court to the statement recorded under Section 164 of the Criminal Procedure Code of the victim as also the medical examination report.

In her statement recorded under Section 164 of the Criminal Procedure Code, the victim claims that there was an attempt to rape her. She also claims that kerosene was poured on her and that she was threatened with murder.

However, on lodgment of the First Information Report, police requested the victim to undergo medical examination which she initially refused. Thereafter, she refused to undergo any medico legal examination and provide the history of the incident.

Learned advocate appearing for the petitioners submits that, three of the co-accuseds were granted bail by the jurisdictional Court.

In view of the materials of the Case Diary and in view of the victim initially refusing to undergo medical examination and in view of the injury report of the victim noting that no rape was committed by the assailants, we deem it appropriate to grant anticipatory bail to the petitioners. Possibility of false implication due to political rivalry cannot be overlooked.

Accordingly, we direct that in the event of arrest the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand only), with two sureties of like amount each, to the satisfaction of the arresting officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioner shall report before the

Investigating Officer once in a fortnight till the conclusion of investigation and on condition that the petitioners shall appear on every date before the jurisdictional Court on and from the date fixed for appearance of the accuseds and in default the jurisdictional Court will pass appropriate order to secure the presence of the petitioners in Court including cancelling the anticipatory bail granted without further reference to this Court.

This application for anticipatory bail is, thus, allowed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)