

D/L 227
February 1, 2023
MNS

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

CRM (A) 788 of 2022

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 23.12.2022 in connection with GR Case No. 4683 of 2022 arising out of Bhaktinagar Police Station Case No. 886 of 2022 dated 16.08.2022 under Sections 341/326/307/34 of the Indian Penal Code read with Section 25(1)(1B)(a)/27(2)/35 of the Arms Act.

And

In the matter of: Banti Saha

.... petitioner

Mr. Sourav Chatterjee,
Mr. Avik Ghatak,
Mr. S. Dasgupta,
Mr. Sampad Das

... for the petitioner

Mr. A. S. Chakraborty,
Mr. Kallol Nag

... for the State

Learned counsel for the petitioner contends that the petitioner is admittedly a cousin of the alleged victim and there was an existing dispute going on between two factions of the family, to which the victim and the present petitioner belong respectively.

It is further submitted that the petitioner was not named as an accused in the FIR. Subsequently, the petitioner, upon coming to know that the petitioner had been named on the basis of an allegation that the petitioner had an existing enmity with the victim, the petitioner moved an anticipatory bail application before the Sessions Court. However, the same was rejected.

It is further submitted that some other co-accused persons, that is, three in number, were released on bail although standing on a similar footing, also by the Sessions Judge.

Learned counsel for the State vehemently opposes the prayer of the petitioner and submits that the investigation is still going on. Moreover, it is contended that the petitioner has been absconding for a long time and in view of such conduct, the petitioner ought not to be granted anticipatory bail.

It is also contended that there is a specific allegation that the petitioner was one of the persons who engaged hired assassins to kill the victim in view of the existing enmity between the petitioner and the victim. As such, it is contended that the petitioner ought not to be permitted to get an anticipatory bail, which, if granted, might adversely influence the investigation.

Upon hearing learned counsel for the parties, we find that the premise of the allegations against the petitioner is apparently a long standing family dispute and that allegedly the petitioner along with others hired assassins to kill the victim. However, apart from the statement made by one of the witnesses to that effect, we do not find anything at the present juncture to indicate that the petitioner was in any way involved in the attempt on the victim. That part, if the petitioner is restrained from entering into the territorial jurisdiction of the local police station, where the victim as well as the petitioner reside, the purpose of caution and justice would be sub-served sufficiently.

Accordingly, CRM (A) 788 of 2022 is allowed, thereby granting anticipatory bail to the petitioner on condition that the petitioner shall

satisfy the stipulations in Section 438(2) of the Code of Criminal Procedure.

In the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Jalpaiguri.

The petitioner shall not enter into the territorial jurisdiction of Bhaktinagar police station, where the petitioner as well as the victim resides, during the entire period of investigation. Moreover, the petitioner shall meet the Investigating Officer once a fortnight and cooperate with the investigation in all manners.

It is made clear that the first rider in this order restraining the petitioner from entering into the area of Bhaktinagar police station shall be excepted only on the occasion and for the reason of the petitioner to meet the Investigating Officer, as directed above.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)