

13.06.2024

Court No.29

Item No. 15

Allowed

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CRM (A) 1939 of 2024

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Karandighi Police Station Case No. 113 of 2024 dated 10.03.2024 corresponding to G.R Case No. 643 of 2024 under Sections 341/323/307/34 of the Indian Penal Code.

And

In Re: **Ashok Kumar @ Ashok Mahato & Anr.**

Petitioners

Mr. Nilddri Ghosh

Mr. Shaharayar Alam

For the Petitioners

Mr. Sayanti Santra

Mr. Debanshu Ghorai

For the State

Mr. Amit Roy

For the De-facto Complainant

1. Learned counsel for the petitioners submits that the dispute between the parties is with regard to the demarcation of land in which in a civil suit an order of injunction is subsisting in favour of the petitioners. It is further contended that the de-facto complainant tried to trespass the petitioners as an unauthorised construction being carried out by the de-facto complainant, which is objected by the petitioners. As a result thereof, there is a free fight between the parties.
2. Learned counsel for the State in opposing the prayer for anticipatory bail has referred to the injury report, which described the injury is clinically simple at the time of examination and the statement of the independent witnesses under Section 161 Cr.P.C.
3. Considering the materials available in the case diary and the fact that there is a case and counter case concerning the land in question and that an

order of injunction is subsisting in favour of the petitioners, we are of the view that custodial interrogation of the petitioners is not necessary.

4. Accordingly, we direct that in the event of arrest, the petitioners namely, **Ashok Kumar @ Ashok Mahato and Anita Mahato** shall be released on bail upon furnishing a bond of Rs.10,000/-each , with two registered sureties of like amount each, subject to the satisfaction of the Arresting Officer and also to comply with the conditions as laid down in Section 438(2) of the Code of Criminal Procedure, 1973. The petitioner no. 1 shall meet the Investigating Officer once in a week or as and when called for till the submission of the final report. The petitioner no. 2 shall cooperate with the investigation till the submission of the final report and on further condition that both the petitioners shall appear before the learned Additional Chief Judicial Magistrate, Islampur, Uttar Dinajpur within two weeks from date. In the event of non-compliance of any of the conditions, the anticipatory bail shall stand automatically cancelled without any further reference to this Court.
5. Accordingly, the prayer for anticipatory bail of the petitioners is allowed and the same is accordingly disposed of.
6. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Soumen Sen, J)

(Uday Kumar , J)

