

06.08.2024
Sl No. 38
Court No. 29
TN
(partly allowed)

CRM (A) 2658 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973, corresponding to Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with Bhutni Police Station Case No. 101 of 2024 dated 04.06.2024 under Sections 447/323/325/307/354/379/506/34 of the Indian Penal Code.

And

In the matter of : **Manoj Kumar Sarkar and others**

.... petitioners.

Mr. Pritam Roy,
Ms. Triparna Roy

....for the petitioners

Mr. Habibur Rahaman

....for the *de facto* complainant

Mr. Arindam Sen,
Mr. Sayan Deb Kumar

... for the State.

1. The learned counsel for the petitioners submits that due to a land dispute, the petitioners have been falsely implicated. The petitioners have been assaulted by the *de facto* complainant and his family members. A false complaint has been filed by the *de facto* complainant.
2. The learned counsel for the State in opposing the prayer for anticipatory bail has referred to the statement of the injured and the medical report.
3. The learned counsel for the *de facto* complainant has produced some documents including Xray of the forearm to show that by reason of the assault, there has been a fracture on the forearm. Learned counsel has produced the medical

certificate from the Department of Health and Family Welfare, Malda Medical College and Hospital.

4. However, these medical reports are not collected by the Investigating Officer.
5. Considering the materials available in the case diary and the nature and extent of involvement of the petitioners in the commission of the alleged offence, the injury report as transpired from the case diary and the medical reports produced on behalf of the *de facto* complainant, we are not inclined to grant anticipatory bail to the petitioner nos. 1, 2, 3 and 9, namely, Manoj Kumar Sarkar, Shib Kumar Mondal @ Sukumar Mondal, Nayan Mondal @ Nayan Kumar Mondal and Naba Kumar Mandal respectively, as they have been directly implicated by the injured.
6. However, no overt act has been attributed to the petitioner nos.4, 5, 6, 7, 8, 10 and 11.
7. Accordingly, we direct that in the event of arrest, the petitioner nos. 4, 5, 6, 7, 8, 10 and 11, namely, **Dipendu Mandal, Bhaskar Mondal, Topesh Mondal, Mala Mondal, Lila Mondal, Lipika Mandal and Chandan Mondal** respectively shall be released on bail upon furnishing a bond of Rs.10,000/- each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer and also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973, corresponding to Section 482(2) of the BNSS, 2023.

8. The petitioner nos. 4, 5, 6, and 11 shall meet the Investigating Officer once in a week or as and when required till submission of the final report. The petitioner nos. 7, 8 and 10 shall cooperate with the investigation.
9. It is further directed that the present accused petitioner nos. 4, 5, 6, 7, 8, 10 and 11 shall appear before the learned Chief Judicial Magistrate at Malda within two weeks from date and pray for regular bail.
10. Accordingly, the application for anticipatory bail is disposed of.
11. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Soumen Sen, J.)

(Uday Kumar, J.)