

05.02.2024

Serial no. 493

Anticipatory bail

[Allowed]

Dd

CRM (A) 5570 of 2023

*In re : An Application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure in connection with **Kharagpur** Police Station local P.S. Case No. **892** of **2023** dated **13.11.2023** under Sections **341/354/354A/376/511/506** of the Indian Penal Code, 1860 and under Section 3(1)(r)(s)(w) of the Scheduled Caste and Scheduled Tribes Prevention of Atrocities Act, 1989.*

-And-

*In the matter of : **Swapan Pal***

*... .. **Petitioner***

*Mr. Sabir Ahmed,
Mr. G. K. Das,
Mr. K.C. Sahoo,
Mr. Tasnim Ahmed, Advocates
... .. For the Petitioner*

*Mr. Suman De, Advocate
... ..For the State*

Affidavit-of-service filed in Court be taken on record.
None appears for the victim.

Provisions of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 were invoked in the police complaint.

Apparently, there is a pending civil suit between the private parties where, there subsists an order of injunction.

The police complaint was lodged through a petition under Section 156(3) of the Criminal Procedure Code.

The petition under Section 156(3) does not speak of any offences under the Act of 1989 being committed by the petitioner.

Apparently, statement under Section 164 of the Cr.P.C. was recorded which brought the Act of 1989 into fold of investigation.

Since, the police complaint does not contain any allegations under the Act of 1989 and since, there is a civil suit pending between the private parties with an order of injunction being passed therein, there is an issue of false implication and the Act of 1989 being invoked for collateral purposes.

In such circumstances, we grant anticipatory bail to the petitioner.

Accordingly, we direct that in the event of arrest the petitioner 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 month till the conclusion of the investigation and on further condition that the petitioner shall appear on every date before the jurisdictional Court on and from the date fixed for appearance of the accused and in default the jurisdictional Court will pass appropriate order to secure the presence of the petitioner in Court including cancelling the anticipatory bail granted without further reference to this Court.

Prayer for anticipatory bail of the petitioner is **allowed**.

CRM (A) 5570 of 2023 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

