

23.02.2024

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT IALPAIGURI**

COURT : 01
ITEM : 07
MATTER : 438
STATUS : PA
BENCH-ID : 1370
TRANSCRIBER : NANDY

CRM (A) 141 of 2024

In Re:- An application for **anticipatory bail** under section **438** of the Code of Criminal Procedure filed on 24.01.2024 in connection with Dinhata Police Station Case No. 647 of 2023 dated 17.11.2023 under Sections 399/402 of the Indian Penal Code read with Sections 25/27/35 of the Arms Act.

And

In the matter of: **Hasinur Miah & Ors.**

.....Petitioners

Mr. Subhasish Misra, Advocate

.....for the Petitioners

Mr. Sourav Ganguly, Advocate

Mr. Dhiman Sil, Advocate

.....for the State

1. Apprehending arrest in connection with Dinhata Police Station Case No. 647 of 2023 dated 17.11.2023 under Sections 399/402 of the Indian Penal Code read with Sections 25/27/35 of the Arms Act; the petitioners have filed the instant application for anticipatory bail.
2. Three persons were arrested in connection with the aforementioned case and their statements have been recorded under Section 161 of the Code of Criminal Procedure.
3. We are conscious of the position of law that the statement of the co-accused to the police authority may not be a reliable piece of evidence but we cannot overlook the complicity of the petitioners or their role in relation to the same for the purpose of consideration of an application for anticipatory bail. We have seen the statements recorded by the Investigating Officers and the investigation is still at the nebulous stage.
4. It is revealed that so far as the petitioner nos. 1, 3 and 4 are concerned, they have ganged-up as their business of cattle smuggling could not become remunerative because of the high amount of expenditure incurred in this regard.
5. In view of the above, we do not think that the petitioner nos. 1, 3

and 4 should be extended the benefit of pre-arrest.

6. Accordingly, the prayer for anticipatory bail in respect of **petitioner no. 1**, namely Hasinur Miah, **petitioner no. 3**, namely Abubakkar Mia @ Bakkar and **petitioner no. 4**, namely, Jahanur Miah @ Hoque, stands **rejected**.
7. We do not find from the statement of any of the co-accused the involvement of the petitioner no. 2. His name is neither disclosed nor has the Investigating Officer at this stage been able to gather any evidence against him.
8. In such view of the matter, we are inclined to grant anticipatory bail to the petitioner no. 2.
9. The prayer for bail in respect of **petitioner no. 2**, namely, Mithun Mia @ Miah is **allowed**.
10. Accordingly, in the event of arrest, the **petitioner no. 2**, namely Mithun Mia @ Miah, 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 Arresting Officer and subject to the condition as laid down under Section 438 (2) of the Code of Criminal Procedure and on further condition that the petitioner would meet the Investigation Officer once in week.
11. The prayer for anticipatory bail thus **partly allowed**.
12. The application for anticipatory bail being **CRM (A) of 141 of 2024** is **disposed of**.

(Harish Tandon, J)

(Supratim Bhattacharya, J)