

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

09.04.2024
Court No.01
rpan/ 264

CRM (A) 266 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure;

And

In Re: Chhamad Ali @ Pagla @ Samad Ali & 10 Others

- Petitioners

Mr. Subhasis Misra,
Mr. Satyajit Paul
...for the Petitioners.

Mr. Nilay Chakraborty, Ld. APP,
Mr. Aniruddha Biswas
...for the State.

Apprehending arrest in connection with Dinhata Police Station Case No.325 of 2023 dated 27.06.2023 under Sections 447/341/324/325/326/307/302/506/34 of the Indian Penal Code read with Sections 25/27/35 of the Arms Act, the present application has been preferred.

Mr. Misra, learned advocate appearing for the petitioners submits that there was a fight between members of two political groups in which the petitioners have been falsely implicated. No specific overt act has been attributed to the petitioners. Upon completion of investigation chargesheet has also been submitted and as such, custodial interrogation of the petitioners may not be necessary.

Mr. Chakraborty, learned Additional Public Prosecutor appearing for the State opposes the petitioners' prayer and submits that there are strong incriminating materials on record against the

petitioners. Their direct involvement in the alleged offence cannot be ruled out. In support of such contention he has drawn our attention to the statement of the witness, as recorded under Section 164 of the Code.

Prima facie, the names of the petitioner nos.1, 3 and 4, namely, **Chhamad Ali @ Pagla @ Samad Ali, Chhamidul Haque** and **Sahin Hoque @ Haque** feature in the statement of the eyewitness, as recorded under Section 164 of the Code. In view thereof, the involvement of the said petitioners cannot be ruled out and accordingly, their prayer for anticipatory bail is refused.

We have perused the materials on record including the statements of the witnesses, as recorded under Section 164 of the Code and assessed the role of the petitioner nos.2, 5, 6, 7, 8, 9, 10 and 11. Upon such cumulative assessment, we find the role of the said petitioners is similar to the role of the other co-accused persons, who have already been granted anticipatory bail by a co-ordinate Bench. Considering the manner in which the alleged offence has taken place and the probable extent of complicity of the petitioner nos. 2, 5, 6, 7, 8, 9, 10 and 11 in the alleged offence, we are of the opinion that their custodial interrogation is not necessary, moreso when upon completion of investigation chargesheet has already been submitted.

Accordingly, we direct that in the event of arrest the petitioner nos.2, 5, 6, 7, 8, 9, 10 and 11, namely, **Minajul Haque, Basta Hoque @ Shahed Badsha, Chhalam Miah @ Chalam Miya, Saher Ali @ Sahar Ali, Hasan Miah @ Ali, Chhamchhul Hoque @**

Samsul Hoque, Kasem Miah @ Kashem Ali and Jahangir Hoque @ Jahangir Alam 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 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 with further conditions that they shall meet with the Officer-in-Charge, Dinhata Police Station once a fortnight till the charges are framed and shall also attend the trial court on all the dates as fixed for hearing.

It is further directed that the petitioner nos.2 and 5-11 shall not influence the witnesses and/or tamper with the evidence in any manner whatsoever.

It is made clear that in the event the petitioner nos.2 and 5-11 fails to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel their bail without any further reference to this Court.

The application for anticipatory bail, being CRM (A) 266 of 2024, is disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Biswaroop Chowdhury, J.)

(Tapabrata Chakraborty, J.)