

14.06.2024
(D/L 7)
Ct. No.1
(Allowed)
(SKB)

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI**

C.R.M.(A) 1005 of 2023

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with New Naxalbari P. S. Case No.226 of 2023 dated 13.10.2023 under Sections 465/467/468/471/120B of the Indian Penal Code corresponding to G.R. Case No.3905 of 2023.

In the matter of : Devendra Kumar Mishra @ Michir
... Petitioner

Mr. Bikramaditya Ghosh,
Ms. Supriya Singh
... for the petitioner

Mr. Abhijit Sarkar,
Ms. Namrata Das
... for the State

1. This is an application for pre-arrest bail.
2. Heard learned counsel for the petitioner and the learned State counsel.
3. The FIR maker has alleged that her husband and many other members of the tribal community had purchased some lands and that all of a sudden; she had received a notice from the B.L. & L.R.O. Office to the effect that the petitioner and his brother are staking their claims in respect of the lands-in-question. The informant thereafter checked the portal and found that the entries support the claim made by the petitioner, which led her to lodging the present FIR. She has alleged that in connivance to the public officials, the wrong entries have been effected to the lands which are tribal lands.

4. The learned counsel for the petitioner submits that the notice was issued to the informant/complainant in the proceedings before B.L. & L.R.O. The rival claims of the petitioner vis-a-vis the complaint is now before the appellate authority and pending consideration.
5. The issue is one clearly involving rival claims to the lands based on the revenue records. The prosecution, therefore, is intended with *mala fide* and based on extraneous consideration to bring the petitioner to terms in the proceeding pending before the revenue authorities.
6. Learned State counsel, on the other hand, raises a serious objection and submits that the tribal lands have been manipulated by the petitioners in the government records and, therefore, an offence is made out.
7. Considering the rival submissions, nature of dispute as noted above and the fact that the custodial interrogation is not required; as also having regard to the clean antecedent of the petitioner and pendency of the appeal with respect to the rival claims being made in respect of the lands in question, we are inclined to allow the prayer for anticipatory bail.
8. Accordingly, it is directed that the petitioner shall be released on bail by the Arresting Officer in the event of his arrest in the G.R. Case No.3905 of 2023 arising out of the aforesaid P.S. case on such terms and conditions as deemed just and proper in the facts and circumstances of

the case including the conditions that the petitioner shall cooperate in the investigation as and when required. The petitioner shall not threaten, induce or coerce any witness of this case in any manner whatsoever during the currency of this order.

9. Accordingly, the prayer for the anticipatory bail is allowed.
10. Within 15 days from today petitioner is directed to appear before the I.O. along with a server copy or certified copy of this order.
11. The application being CRM(A) 1005 of 2023 is disposed of.
12. The Arresting Officer is hereby directed to act upon the server copy or certified copy of this order.

(Madhuresh Prasad, J.)

(Partha Sarathi Chatterjee, J.)