

04.01.2024
SL No.14
Court No.1
(srimanta)
(Allowed)

***Circuit Bench of Calcutta High Court
At Jalpaiguri***

CRM (A) 1020 of 2023

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed in connection with Darjeeling Cyber Crime Police Station Case No.03 of 2023, dated 09.08.2023 under Section 505(2) of the Indian Penal Code, 1860 corresponding to GR Case No. 150 of 2023 pending before the Learned Chief Judicial Magistrate, Darjeeling.

And

In the matter of : **Kameswar Roy**

- Petitioner.

Mr. Pritam Roy,
Ms. Sunayna Prasad,
... For the Petitioner.

Mr. Saikat Chatterjee,
Mr. Chattu Roy
... For the State.

Heard Mr. Pritam Roy, learned Counsel for the petitioner and
Mr. Saikat Roy, learned Counsel for the State.

This petition under Section 438 of the Code of Criminal Procedure has been filed praying for anticipatory bail in connection with Darjeeling Cyber Crime Police Station Case No. 03/2023 dated 09.08.2023 under Section 505(2) of the Indian Penal Code, 1860 corresponding to G.R. Case No. 150/2023 pending before the learned Chief Judicial Magistrate, Darjeeling.

Learned Counsel for the petitioner submits that the petitioner has been falsely implicated and even on bare reading of First Information Report, no case has been made out for offence under

Section 505(2) of the Indian Penal Code. He submits that none of the ingredients to Section 505(2) of the Indian Penal Code are satisfied on the allegations made in the First Information Report. He further submits that the petitioner is ready and willing to cooperate in investigation.

Learned Counsel for the State submits that the petitioner is the principal offender in making the video to show an alleged red light area of Darjeeling with a caption “Darjeeling red ight area, Nehru Road” whereas the video was not of Darjeeling but of some unknown place and as such he has committed the offence rendering himself liable for punishment under Section 505(2) of the Indian Penal Code.

We have carefully considered the submissions of learned Counsel for the parties and perused the petition.

The maximum punishment provided for offence under Section 505(2) of the Indian Penal Code is imprisonment for a maximum period of three years or with fine or with both. The petitioner through his Counsel has undertaken before us to cooperate in investigation, as aforenoted.

Considering all the facts and circumstances of the case, the stage of investigation and without commenting on merits of the case, anticipatory bail is granted to the accused petitioner, namely, **Kameswar Roy** in relation to afore-noted Darjeeling Cyber Crime Police Station Case No. 03 of 2023 dated 09.08.2023 under Sections 505(2) of the Indian Penal Code, 1860

corresponding to G.R. Case No. 150 of 2023, subject to the following conditions:-

- (i) In the event of arrest, the petitioner 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 Chief Judicial Magistrate, Darjeeling and shall abide by the conditions laid down in Section 438(2) of the Code of Criminal Procedure until further orders.
- (ii) In the event the petitioner fails to adhere to any of the conditions stipulated in Section 438(2) of the Code of Criminal Procedure, the learned Court below will be at liberty to cancel the anticipatory bail without further reference to this Court.

The application for anticipatory bail being CRM (A) 1020 of 2023 is, thus, allowed.

Urgent certified copy of this order, if applied for, be supplied to the learned Counsel for the respective parties.

(Surya Prakash Kesarwani, J.)

(Ray Chattopadhyay, J.)