

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

04.01.2024
JPD 20
Sws.M
ct.1

C.R.M. (A) 1036 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 in connection with Pundibari Police Station Case No. 623/2023 dated 04.09.2023 under Sections 448/323/325/341/307/354/379/427/506/34 of IPC.

Allowed

In the matter of : **Sailen Dey @ Abu Dey**

..... Petitioner

Mr. Mr. Hillol Saha Podder
Ms. Mousumi Das

...for the Petitioner

Mr. Saikat Chatterjee
Mr. Chattu Roy

...for the State

Heard Mr. Hillol Saha Podder, learned counsel for the petitioner and Mr. Saikat chatterjee, learned State Advocate for the opposite party.

The present bail application under Section 438 Cr.P.C. has been filed praying for anticipatory bail in connection with Pundibari Police Station Case No. 623/2023 dated 04.09.2023 under Sections 448/ 323/ 325/ 341/ 307/ 354/ 379/ 427/ 506/ 34 of the Indian Penal Code, 1860, pending in the Court of Chief Judicial Magistrate, Coochbehar in connection with G.R. Case No. 1693/2023.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated and even on bare reading of the FIR and the injury report, no case under

Section 307 IPC has been made out. Neither use of any weapon has been alleged in the alleged commission of crime nor any weapon was recovered. The alleged injury received by the victim are simple injuries as per own case of the prosecution. The charge-sheet has been filed on 31.10.2023.

Learned State advocate submits that after investigation a charge-sheet dated 31.10.2023 has been filed by the police and as per charge-sheet involvement of the petitioner has been found. He, however, admits that neither any grievous injury was received by the victim girl nor any weapon was used in the offence nor it was recovered. He also states that as per record there is no criminal antecedent of the petitioner.

We have heard learned counsel for the parties and carefully considered their submissions and also perused the Case Diary as produced by the learned State advocate.

On an overall prima facie assessment of the nature of allegations against the petitioner, we are of the view that immediate custodial interrogation of the petitioner may not be necessary so long as he is prepared to cooperate in future investigation, if any.

Considering all the facts and circumstances of the case, the nature and gravity of the acquisition, the antecedent of the petitioner and the apprehension of arrest expressed by the petitioner, we allow the present petition and grant anticipatory bail to the petitioner, namely, **Sailen Dey @ Abu**

Dey, in the above noted criminal case 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, Coochbehar 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) 1036 of 2023** is, thus, **allowed**.

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

(Rai Chattopadhyay, J.)

(Surya Prakash Kesarwani, J.)