

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

04.01.2024
JPD 22
Sws.M
ct.1

C.R.M. (A) 1038 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 in connection with Ghoksadanga Police Station Case No. 249 of 2023 dated 25.05.2023 under Sections 447/323/326/307/354 /506/34 of IPC.

Allowed

In the matter of : **Biren Barman & Anr.**

..... Petitioners

Mr. Mr. Hillol Saha Podder
Ms. Mousumi Das

...for the Petitioners

Mr. Kallol Acharjee
Mr. Biswarup Roy

...for the State

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

Learned counsel for the petitioners states that the petitioner No. 1 has already been arrested and as such present bail petition under Section 438 Cr.P.C. has not been pressed *qua* the petitioner No. 1, namely, Biren Barman. The present petition is being pressed only *qua* the petitioner No. 2, namely, Satyanath Barman.

As per prosecution case, there was some boundary dispute between the accused's family and the victim's family. On 25.05.2023, the accused persons came with iron rod and wooden sticks and dislocated the pillar of boundary wall and

beaten the husband of the complainant. Consequently, FIR being Ghoksadanga Police Station Case No. 249 of 2023 dated 25.05.2023 under Sections 447/323/326/307/354/506/34 of IPC in connection with GR case No. 641 of 2023 pending in the Court of Additional Chief Judicial Magistrate, Mathabhanga was registered.

Learned counsel for the petitioners submits that the petitioner No. 2 has been falsely implicated and no specific role has been made in the FIR. The petitioner No. 2 was not at all involved in the aforesaid alleged incident. It is further stated that the petitioner No. 2 has no criminal history and instead he is a peace loving and law abiding person.

Learned State advocate submits that during investigation the Investigating Officer has found evidence regarding involvement of the petitioner No. 2 in the aforesaid criminal case.

We have heard learned counsel for the parties and carefully considered their submissions and also perused the record of the present petition.

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 the facts and circumstances of the case, the nature and gravity of the acquisition, the antecedent of the

petitioner No. 2, we allow the present petition *qua* the petitioner No.2, **Satyanath Barman** son of Suresh Barman in connection with the afore-noted criminal case and grant him anticipatory bail subject to the following conditions:-

- (i) In the event of arrest, the petitioner No. 2 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 Additional Chief Judicial Magistrate, Mathabhanga 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 No.2 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 bail petition is allowed *qua* the petitioner No.2 and it is dismissed as infructuous *qua* the petitioner No. 1.

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.)