

28.04.2025
Court No.28
Item No.39
tbsr
Allowed

CRM (A) 1328 of 2025

In Re: - An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with **Shyampur** P.S. Case No. **152 of 2025** dated **29.03.2025** under Sections **196(1)/299/353(1)(b)(c)(2)/61(2)/57** of the Bharatiya Nyaya Sanhita, 2023.

And

In the matter of: **Kausik Chakraborty & Anr.**

....Petitioners.

Mr. Rajdeep Mazumder

Mr. Pritam Roy

Ms. Triparna Roy

Mr. Soumya Raha

...for the petitioners.

Mr. Antarikhya Basu

Mr. Asraf Mondal

.....for the State.

Learned senior counsel appearing on behalf of the petitioners submits as follows. The petitioners have been falsely implicated in this case due to political rivalry. Even if one goes by the allegations, no *prima facie* case is made out against the petitioners. Moreover, if incitement is to be there, two different identifiable groups have to there. Reliance is placed on decision in *Patricia Mukhim* reported in (2021) 15 Supreme Court Cases 35 and *Bilal Ahmed Kaloo* reported in (1997) 7 Supreme Court Cases 431.

Learned counsel appearing on behalf of the State opposes the prayer for anticipatory bail and submits as follows. The statements of witnesses, the call record details, and the call recording in question make out the *prima facie* case against the petitioners. Recording has been sent to the experts for verification. It appears from the statement of witnesses that the petitioners had planned to put up a

banner to disturb communal harmony and make some communal utterances in a gathering and then flee away from them.

It is to be finally decided whether the petitioners were responsible for any such acts as alleged or if such acts at all amounted to any offence.

In view of the materials available in the case diary and the fact that call recording has already been seized and sent for forensic test, I do not find that custodial interrogation of the petitioners is required.

In the event of arrest, the petitioners 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 also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 corresponding to Section 482(2) of the BNSS, 2023 and on further condition that the petitioners shall co-operate with investigation including supply of voice sample for comparison and shall meet the Investigating Officer once a fortnight till the submission of report in final form and the petitioners shall not threaten or intimidate witnesses.

The application for anticipatory bail is, thus, allowed.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)