

06.10.2020
SL No.29
Court No.11
(gc)
(Allowed)

**CRM 7318 of 2020
CRAN 1 of 2020**

(Through Video Conference)

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Kaliachak** P.S. Case No.**578/2019** dated **05.09.2019** under Sections **302, 34** of the Indian Penal Code.

And

In the matter of: **Asraul Sk.**

....Petitioner.

Mr. Sagar Saha

...for the Petitioner.

Mr. P.K. Datta, Ld. A.P.P.,

Mr. Nirupam Dhali

...for the State.

The petitioner undertakes to affirm and stamp the petition/application as per Rules within one month of resumption of normal functioning of the Court. Subject to such undertaking, the application is taken up for hearing through video conference.

Accordingly, the application being CRAN 1 of 2020 is disposed of.

The learned Counsel for the petitioner submits that there is no direct evidence connected to the petitioner in the alleged offence and as the co-accused persons are on bail, the petitioner may be granted anticipatory bail. It is further submitted that the petitioner is suffering from oral cancer and regular treatment is necessary. In view of the pandemic situation, unless this prayer is allowed, the safety of the petitioner will be at stake. The learned Counsel for the petitioner has relied upon two orders of the Coordinate Bench dated 22nd January, 2020 in CRM 688 of

2020 and 24th February, 2020 in CRM 1883 of 2020 in support of his prayer for anticipatory bail.

The learned Counsel for the State, however, opposes the prayer for anticipatory bail and submits that the eyewitnesses in their statement have implicated the petitioner and there is a direct involvement in the commission of alleged offence.

Having considered the material available in the case diary and bearing in mind the nature of allegations and as there is no direct evidence connecting the petitioner with the alleged crime and as co-accused persons are on bail, we are inclined to grant anticipatory bail to the petitioner. We feel that the custodial interrogation of the petitioner is not necessary.

In the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- (rupees ten thousand) each together with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Malda and also subject to the conditions as laid down under Section 438(2) of the Cr.P.C and on further condition that the petitioner shall cooperate with the investigation officer and shall make himself available for investigation as and when required and on further conditions that the petitioner shall not intimidate the witnesses or tamper with evidence in any manner whatsoever and he shall appear before the trial court on every date of hearing either by himself or his duly authorized representative and in the event he or his authorized representative fails to do so, the trial court shall be at liberty to cancel his bail without further reference to this Court.

The application for anticipatory bail being CRM 7318 of 2020 is allowed.

All parties are to act on a website copy of this order on the usual undertaking.

(Saugata Bhattacharyya, J.)

(Soumen Sen, J.)