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06-10-2020

Court 11

Partly
allowed

C.R.M. 7429 of 2020

(Via Video Conference)

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Sitalkuchi Police Station Case No. 30 of 2020 dated 26.02.2020 under sections 447/302/323/325/354/506/43 of the Penal Code.

Shyamal Barman & Ors.

Versus

State of West Bengal

Mr. Sukman Sehanabis, Adv.

...for the petitioner.

Mr. Ujjal Kuksom, Adv.

Mr. Biswarup Roy, Adv.

...for the State.

The petitioners undertake to affirm and stamp the petition/application as per the Rules within one month of resumption of normal functioning of the Court. The petition is taken up through video conference on the basis of such undertaking.

The learned Counsel appearing on behalf of the petitioners submits that out of enmity and rivalry between the de-facto complainant and the petitioners, the petitioners have been falsely implicated in this case. It is submitted that the petitioners are not even overtly connected with the commission of alleged offence.

The learned Counsel for the State, however, opposes the prayer for anticipatory bail. It is submitted that out of the seven named persons in the FIR, two persons have been arrested and are in custody. The petitioner no.1 is the third principal accused who had taken active role in inflicting injury upon the victim.

The learned Counsel appearing for the State has relied upon the statement of the eyewitnesses under Section 164 of the Code of Criminal Procedure in support of his submission.

Having considered the materials on record, case diary and the materials available against the petitioners and the fact that the charge-sheet has already been filed, we are of the opinion that custodial interrogation of the petitioner nos. 2, 3, 4 and 5 is not necessary.

Accordingly, we direct that in the event of arrest, the petitioner nos. 2, 3, 4 and 5, namely, Malati Barman, Suraj Jaman Aktar @ Sabuj Mia, Najir Hossain @ Sebu Miya and Belarani Barman, shall be released on bail upon furnishing a bond of Rs. 10,000/- (Rupees Ten Thousand only) each with two sureties of like amount each, to the satisfaction of the arresting officer and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973. In addition, the petitioner nos. 2, 3, 4 and 5 will attend the trial on every day fixed and any default on their part will entitle the trial court to cancel the bail without further reference to this Court

The application for anticipatory bail of petitioner nos. 2, 3, 4 and 5 is, accordingly, allowed and the application for anticipatory bail of the petitioner no. 1 is rejected.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Saugata Bhattacharyya, J.)

(Soumen Sen, J.)