

15.10.2020

CRM 7777 of 2020

Court No. 12
Item No. 16
ss

(anti-bail rejected)

In Re: An application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure filed on 29.09.2020 in connection with Khargram Police Station Case No. 135 of 2019 dated 22.07.2019 under Sections 323/326/307/34 of the Indian Penal Code.

and

In the matter of: **Zinnar Ali @ Zinner Ali**

..... Petitioner

Mr. Prosenjit Mukherjee, Advocate

Mr. Saptarshi Chakraborty, Advocate

.....for the Petitioner

Mr. Narayan Prasad Agarwal, Advocate

Ms. Subhashree Patel, Advocate

..... for the State

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

This is a renewal of the prayer of anticipatory bail under the changed circumstances. It is submitted that the earlier application for anticipatory bail being CRM 1179 of 2020 was rejected on 05.02.2020 as the charge-sheet was not filed at that relevant point of time. It is submitted that the incident occurred in front of the hotel of the petitioner though he has no active involvement in it and the petitioner has been falsely implicated in the instant case. It is further submitted that the charge-sheet does not reveal that the petitioner has been found guilty of commission of an offence under Sections 3/4 of the Explosive Substances Act and therefore, the charges which have been levelled against the petitioner are under Section 323/326/307/34 of the Indian Penal Code.

The learned Advocate for the State opposes the prayer for anticipatory bail. It is submitted that the petitioner is absconding and the statement of the person recorded under Section 161 of the Code of Criminal Procedure would reveal the active involvement of the petitioner

in the alleged commission of offence.

After hearing the respective submissions and on perusing the materials on record including the statement recorded under Section 161 of the Code of Criminal Procedure, it does not instil confidence that the petitioner is entitled to anticipatory bail under the so-called change circumstances. The petitioner's complicity to the offence is prima facie revealed in a statement recorded under Section 161 of the Code of Criminal Procedure even if the charge-sheet has been filed exonerating the petitioner from the commission of an offence under the Explosive Substances Act.

The petitioner is not entitled to any immunity from arrest under Section 438 of the Code of Criminal Procedure.

Accordingly, the prayer for anticipatory bail is rejected.

The application being CRM 7777 of 2020 is, thus, dismissed.

(Shampa Sarka, J.)

(Harish Tandon, J.)