

25.11.2020
Item No. 40
k.b./b.r.
Crt.11
Rejected

C.R.M. 8731 of 2020

(via video conferencing)

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Kasba P.S. Case No. 76 of 2017 dated 07.02.2017 under Sections 148/149/302/506 of the Indian Penal Code.

And

In Re : Ajoy Prosad @ Chulai Pappu petitioner.

Mr. Prosenjit Mukherjee

Mr. Saptarshi Chakrabortyfor the petitioner.

Mr. N. Ahmed

Ms. Manisha Sharma

Ms. Amita Gaur

....for the State

Petitioner undertakes to affirm and stamp the petition/application as per Rules within 48 hours of resumption of normal functioning of the court. Subject to such undertaking, the application is taken up for hearing through video conferencing.

Learned advocate for the petitioner submits that he is innocent of the charges, at this stage.

Mr. Ahmed, Learned advocate raises preliminary objection regarding the maintainability of this petition under Section 438 of the Code of Criminal Procedure.

Mr. Ahmed relies upon the order dated 21.04.2017 wherefrom it would reflect that proclamation has been issued against this petitioner.

In view of the position of law that the present petitioner is proclaimed offender, we are of the opinion that the present

application under Section 438 Cr.P.C. is not maintainable. As such the application for anticipatory bail is rejected.

Mr. Mukherjee, learned advocate appearing on behalf of the petitioner undertakes that the petitioner would surrender before the learned Trial Court.

In view of the undertaking given by the learned advocate, we direct that in case the petitioner surrenders by 3.12.2020 before the learned trial Court, the learned trial Court would independently consider his bail application without being influenced by any of the observation made in this order.

With the aforesaid observations, CRM 8731 of 2020 stands disposed of.

All concerned parties shall act in terms of the copy of the order downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)

(Subrata Talukdar, J.)