

(Via Video conference)

24.03.2021
Item no. 03/dd/aloke

C.R.M. 371 Of 2021

In Re : An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 11.01.2021 in connection with Kulti P.S. Case No. 354 of 2019 dated 25.08.2019 under Sections 302/201/120B of the Indian Penal Code read with Sections 25/27/35 of the Arms Act.

And

In the matter of: Seikh Saddique & Anr.

...Petitioners

Mr. Sekhar Basu, ld. sr. adv.
Mr. Kushal Kr. Mukherjee, adv.
Mr. Diptangshu Basu, adv.
.... For the petitioners
Mr. Swapan Banerjee, ld. APP
Ms. Purnima Ghosh, adv.
... ...For the State

We have heard learned senior counsel appearing for the two petitioners who are among the accused persons in Kulti P.S. Case No. 354 of 2019 alleging offences punishable under Sections 302/201 and 120B of the Indian Penal Code and Sections 25/27/35 of the Arms Act pending before the Chief Judicial Magistrate, Paschim Burdwan.

We have gone through the contents of the first information statement and also the other materials in the case diary including the post mortem report. We have also heard the learned Additional Public Prosecutor on behalf of the State.

Mr. Sekhar Basu, learned senior counsel appearing for the petitioners argued that in the case in hand the materials available on record do not disclose the involvement of the petitioners and the mere fact that their properties were earlier attached following proclamation is of no consequence. The nature of the complaint as disclosed by the first information statement is referred to, to state that there is no way of identifying any particular allegation which could be connected to the petitioners.

Per contra, learned APP submits that this is not a case where anticipatory bail could be granted particularly when the

other accused persons were arrested, detained and later released on bail by the court below. He says that there is no circumstance or ground warranting issuance of an order granting anticipatory bail in this case where the offences alleged fall within Sections 302/201 and 120B of the Indian Penal Code and Sections 25/27/35 of the Arms Act. He points out that the P.M. report categorically says that the victim died of bullet injuries and this is not one of those cases where relief by way of anticipatory bail could be resorted to.

Having considered the material papers and the case diary and the allegations made by the first informant who is the brother of the victim, his statement having been recorded the day immediately succeeding the alleged date of occurrence, we see that inter alia, the allegations include the commission of offence punishable under Section 120B of the IPC.

In the aforesaid facts and circumstance, we are not persuaded to grant an order of anticipatory bail. However, we clarify that in the event of arrest, within three weeks of the petitioners serving copy of an application for bail on the Public Prosecutor before the court below, such application may be considered and decided by the court below expeditiously.

Subject to the aforesaid, the prayer for anticipatory bail is rejected.

C.R.M. 371 of 2021, is, thus disposed of.

(Thottathil B. Radhakrishnan, C.J.)

(Arijit Banerjee, J.)