

12.03.21 In re: An application for anticipatory bail under Section 438 of the
(S.R.) Code of Criminal Procedure filed in connection with **Ratua** Police
Sl.36 Station Case **No.284 of 2017** dated **17.06.2017** under Sections
Ct.28 **341/325/326/307/379/34** of the Indian Penal Code, 1860;

And

In re: Ataur Rahaman & Ors.

... petitioners.

Mr. Soupal Chatterjee

... for the petitioners.

Mr. Arijit Ganguly

Mr. Sanjib Kumar Dan

...for the State.

Mr. Chatterjee, learned advocate appearing for the petitioners submits that the petitioners have been falsely implicated. No overt act has been attributed to the petitioners. Co-accused persons have already been enlarged on bail. Upon completion of investigation charge sheet has also been filed. As such custodial interrogation of the petitioners is not necessary.

Mr. Ganguly, learned advocate appearing for the State opposes the petitioners' prayer and draws our attention to the injury reports and the statements of the witnesses, as recorded under Section 161 of the Code.

Upon perusal of the materials in the case diary, *prima facie*, we find that no overt act has been attributed to the petitioner no.3 herein and as such, we are of the opinion that the said petitioner no.3 is entitled to the privilege of anticipatory bail.

Accordingly, we direct that in the event of arrest, the petitioner no.3, namely, **Saddam @ Motiur Rahaman** shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, 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.

However, *prima facie*, the records disclose the direct involvement of the petitioner nos.1 and 2 in the alleged offence. In view of their complicity in the alleged offence, we are not inclined to exercise any discretion in favour of the petitioner nos.1 and 2. Accordingly, the prayer for anticipatory bail of the petitioner nos.1 and 2, namely, **Ataur Rahaman and Saiful** is refused.

Accordingly, the application for anticipatory bail being CRM No.625 of 2021 is partly allowed.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)