

29.07.2021

(Via Video Conference)

Court No.28
Item No.381
(ALLOWED)

CRM 1308 of 2021

Ab/Saswata

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed on 29.01.2021 in connection with Murshidabad Police Station Case No. 158 of 2020 dated 07.05.2020 under Sections 341/326/307/302/34 of the Indian Penal Code (G.R. Case No. 1257 of 2020);

And

In the matter of : **Rakesh Sk. and another.**

...Petitioners

**Mr. Ayan Bhattacharya,
Mr. Mir Anower.**

...For the Petitioners

**Mr. Rana Mukherjee,
Mrs. Sujata Das,
Ms. Debjani Sahu.**

... For the State

The Advocate-on-record of the petitioners undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking, the application is taken up for hearing.

Apprehending arrest in connection with Murshidabad Police Station Case No. 158 of 2020 dated 07.05.2020 under Sections 341/326/307/302/34 of the Indian Penal Code, the petitioners have filed the instant application for anticipatory bail under Section 438 of the Code of Criminal Procedure.

It is submitted by the learned Advocate for the petitioners that the petitioner no. 2 has been arrested amidst the pendency of the instant application and, therefore, prays for withdrawal of the instant application so far it relates to petitioner no. 2 is concerned.

Accordingly, prayer for anticipatory bail so far as petitioner no. 2 is concerned is dismissed as 'withdrawn'.

He moves the instant application on behalf of the petitioner no. 1.

It is submitted that the petitioner no. 1 has been falsely implicated in the instant case and the police is attempted to apprehend the petitioner no. 1 although the other co-accused than the principal accused standing on the same footing had been granted anticipatory bail.

State opposes the prayer for bail and relies upon the statement of the witness as well as the injured person recorded under Section 161 of the Code of Criminal Procedure. It is submitted that the petitioner no. 1 has been named by those persons and, therefore, should not be granted anticipatory bail.

After hearing the respective submissions and on perusal of the statement of the witness as well as the injured person recorded under Section 161 of the Code of Criminal Procedure, we find that the petitioner no. 1 stands on the same footing that of the other co-accused, who have been granted anticipatory bail.

Accordingly, we direct that in the event of arrest the petitioner no. 1, namely, **Rakesh Sk.**, 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 also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioner shall appear before the Trial Court on every date of hearing until further orders.

In the event the petitioner fails to do so without any justifiable cause, the Trial Court shall be at liberty to pass necessary order in

accordance with law without any further reference to this Court.

CRM 1308 of 2021 is, thus, **allowed**.

(Harish Tandon, J)

(Bibek Chaudhuri,J.)