

CRM 1643 of 2021

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Baishnabnagar Police Station** Case No. **502 of 2017** dated **02.07.2017** under Sections **147/148/149** of the Indian Penal Code and Sections 3/4/5 of the Explosive Substance Act and Section 15 of the NDPS Act.

- A n d -

In the matter of : Jahirul Sekh @ Jahir Sk

.... Petitioner.

Mr. M. Gomes,
Mr. M. H. Chowdhury

... For the Petitioner.

Mr. M. Sur, Ld. APP,
Mr. D. Pramanik,

... For the State.

It is submitted on behalf of learned Counsel for the petitioner that the petitioner was not involved in the alleged offence and was named due to village rivalry. Moreover, it is contended that the seizure list did not indicate any of the explosive bombs or other ammunition having been seized from the present petitioner.

Learned Counsel appearing for the State places reference heavily on the statements made under Section 161 by some of the eye-witnesses of the in-fight between some people, also indicating that they came to know from other co-accused persons about the involvement of the Jahirul Sekh, alias Jahir Sk, the petitioner, in the altercation.

However, neither the statements of the co-accused nor hearsay of the local people, based on the statements of the co-accused, can be held even *prima facie* to be clinching

evidence for curtailing the personal liberty of the petitioner unnecessarily. As such, there is sufficient scope of extending the benefit of doubt in favour of the petitioner for the purpose of grant of anticipatory bail.

Accordingly, in the event of arrest, the petitioner, **Jahirul Sekh @ Jahir Sk**, shall be released on bail upon furnishing a bond of Rs. 20,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer and shall abide by the conditions laid down in Section 438 (2) of the Code of Criminal Procedure until further orders and shall not tamper with evidence.

In the event the petitioner fails to adhere to any of the conditions stipulated in Section 438 (2) of the Code of Criminal Procedure, the learned Court below will be at liberty to cancel the anticipatory bail without further reference to this Court.

The application for anticipatory bail being CRM 1643 of 2021 is, thus, allowed.

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

(Sabyasachi Bhattacharyya, J.)

(Bivas Pattanayak, J.)