

08.10.2021
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Ct. No 29
KAUSHIK
(REJECTED)

C.R.M 4305 of 2021
(via video conference)

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Santipur** Police Station Case No. **25** of **2020** dated **14.01.2020** under Sections 302/120B of the Indian Penal Code, 1860.

And

In Re : Dipak Sing @ Kele Singh.

..... petitioner

Mr. Sayan De
Mr. Kaustav Shome
Mr. Sayan Kanjilal
Ms. Esha Acharya

.... for the petitioner

Mr. Madhusudan Sur
Mr. Manoranjan Mahata

... for the State

Petitioner seeks anticipatory bail on the ground of parity.

Learned advocate appearing for the petitioner submits that, all other co-accused were granted anticipatory bail by the Coordinate Bench. The petitioner stands on the same footing.

Learned advocate appearing for the State draws the attention of the Court to the persons, who were granted anticipatory bail and to the statement recorded under Section 161 of the Code of Criminal Procedure. He submits that, the initial order is dated October 13, 2020. The next order is of December 1, 2020. The order passed on December 1, 2020 proceeds on the finding that the other co-accused is on anticipatory bail since October 13, 2020 and that the petitioner on December 1, 2020 was more or less on the same footing as that of the earlier petitioner.

It appears from the records that there are statement recorded under Section 164 of the Code of Criminal Procedure from which the name of the petitioner transpires as one of the assailants. The first order of the Coordinate Bench granting anticipatory bail is dated October 13, 2020. The person granted anticipatory bail is not named in the statement recorded under Section 164 of the Code of Criminal Procedure. The subsequent orders of the Coordinate Bench proceeds on the basis of the subsequent petitioners being on the same footing as that of the first petitioner, who was granted anticipatory bail on October 13, 2020. In the present case, the petitioner before us is named in the statement recorded under Section 164 of the Code of Criminal Procedure. Consequently, we are unable to return a finding that the petitioner stands on the same footing as that of the person granted anticipatory bail on October 13, 2020. Consequently, we are unable to grant anticipatory bail to the petitioner.

Accordingly, prayer for anticipatory bail of the petitioner is rejected and the application being CRM 4305 of 2021 is dismissed.

(Debangsu Basak, J.)

(Ananda Kumar Mukherjee, J.)

