

D/L 91.
17.11.2021
Ct.29
KOLE
Allowed

C.R.M. 5259 of 2021

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Nawda Police Station Case No. 140 of 2018** dated **15/05/2018** under Section **302** of the Indian Penal Code and Sections 25/27 of the Arms Act.

And

In the matter of: - **Mosaraf Hossain Mondal**

...petitioner.

Mr. Milan Mukherjee, Sr. Adv.
Mr. P. Das,
Mr. H. Islam,

...for the petitioner.

Mr. S. G. Mukherji, Ld. P.P.,
Mr. M. Sur, Ld. APP,
Mr. M. Mahato

...for the State.

The petitioner seek anticipatory bail.

Learned Advocate appearing for the petitioner submits that the petitioner was falsely implicated. The incident is of 2018. There is no material implicating the petitioner. The statement sought to be recorded under Section 164 of the Code of Criminal Procedure is after more than three years two months. Such statement is not corroborated.

Learned Advocate for the State draws attention of the Court to the post mortem report and to the statement recorded under Section 164 of the Code of Criminal Procedure of the wife of the victim.

Considering the materials in the case diary and considering the fact that the statement under Section 164 of the

Code of Criminal Procedure was recorded more than 3 years after the incident and considering the fact that there are no other materials in the case diary, we are inclined to grant anticipatory bail to the petitioner.

Accordingly, we direct that in the event of arrest, the petitioner 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 shall abide by the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioner shall report to the Investigating Officer once a month until further orders.

In case the petitioner fail to adhere to any of the conditions mentioned in Section 438(2) of the Code, the learned Court below shall be entitled to cancel the anticipatory bail without further reference to this Court.

The application being C.R.M. 5259 of 2021 is, accordingly, disposed of.

All parties shall act in terms of server copy of this order downloaded from the official website of this Court.

(Debangsu Basak, J.)

(Ananda Kumar Mukherjee, J.)