

10.12.2021
Item no.202
Court No.32
Avijit Mitra

C.R.M. 6195 of 2021

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure;

And

In Re : Abul @ Abdul Khayer Molla & ors.

.... petitioners

Mr. Uday Shankar Chattopadhyay,
Mr. Santanu Maji,
Mr. Pronay Basak,
Ms. Trisha Rakshit

....for the petitioners

Mr. Arijit Ganguly,
Mr. Sanjib Kumar Dan

..... for the State

Apprehending arrest in connection with Kashipur Police Station Case No.213 of 2021 dated 05.05.2021 under Sections 447/323/325/307/504/506/34 of the Indian Penal Code read with Sections 3/4 of the Explosive Substances Act, the present application has been preferred.

On the prayer of Mr. Chattopadhyay, learned advocate appearing for the petitioners, the present application being CRM 6195 of 2021, so far as the petitioner nos. 3 and 11 are concerned is dismissed as "not pressed".

He further submits that there was a political rivalry amongst the parties and the petitioners have been falsely implicated. The allegations are omnibus in nature and no specific role has been attributed to the petitioners. In the said conspectus, custodial interrogation is not warranted.

Mr. Dan, learned advocate appearing for the State opposes the petitioners' prayer and draws our attention to

several documents in the case diary including the statement of witnesses as recorded under Section 161 of the Code and the injury report.

Prima facie, no overt act has been attributed to the petitioner nos. 2, 4, 5, 6, 7, 8, 9, 10 and 12. In view of the political rivalry amongst the parties, likelihood of false implication cannot be totally ruled out. As such, we are of the opinion that custodial interrogation of the petitioner nos. 2, 4, 5, 6, 7, 8, 9, 10 and 12 is not warranted.

Accordingly, we direct that in the event of arrest, the petitioners, namely, **Azahar @ Azar Uddin Tarafdar, Saiful Molla, Nuhu Ali Molla @ Nur Alam Molla, Azahar @ Azar Uddin Dewan, Sahidul Sahaji, Hafijul Sahaji, Nasir Uddin Molla, Ajan Ali Molla and Kuddus Molla**, shall be released on bail upon furnishing a bond of Rs. 10,000/- (Rupees Ten thousand only) each with two sureties of like amount each, 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 with further condition that the said petitioners shall not enter the jurisdiction of Kashipur Police Station save and except for meeting with the investigating officer of the case once a week on and from 14th December, 2021 till investigation is over.

The petitioners shall also attend the learned Trial Court on all the dates as specified for hearing and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

It is made clear that in the event the said petitioners fail to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel the said petitioners' anticipatory bail without any further reference to this Court.

However, there are incriminating materials in the case diary against the petitioner no.1 and *prima facie* his direct involvement in the alleged offence cannot be ruled out and as such, we are not inclined to exercise any discretion in his favour and his prayer for anticipatory bail is rejected.

Accordingly, the application for anticipatory bail being C.R.M.6195 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.

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)