

10.11.2021

CRM 6896 of 2021

court no. : 28
Item no. : PB-28
matter : 438
status : ALLOWED
transcriber : nandy

In Re:- An application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure filed on 26.10.2021 in connection with Islampur Police Station Case No. 36 of 1999 dated 07.04.1999 under Sections 326/302/307/34 of the Indian Penal Code and Sections 3/4 of the Explosive Substances Act. (G.R. Case No. 234 of 1999)

and

In the matter of: **Aminul Islam**

.....Petitioner

Mr. Jishan Iqubal Hossain, Advocate

.....for the Petitioner

Mr. Swapan Banerjee, Advocate

Mr. Suman De, Advocate

.....for the State

Apprehending arrest in connection with Islampur Police Station Case No. 36 of 1999 dated 07.04.1999 under Sections 326/302/307/34 of the Indian Penal Code and Sections 3/4 of the E.S. Act, the petitioner has filed the instant application for anticipatory bail.

It is submitted by the learned Advocate for the petitioner that he has been falsely implicated in the instant case out of political vengeance. It is further submitted that it is improbable that he would remain present at the spot of occurrence when he was already complying the order in visiting the C.I.D. Officer in connection with another case at Kolkata. It is further submitted that challenging an order of issuance of warrant of arrest against the petitioner, a revisional application being CRR 2159 of 2000 was filed before this Court and by an order dated August 30, 2000, the execution of the warrant of arrest was stayed. Subsequently, the said revisional application was dismissed on January 10, 2019 in absence of the petitioner. It is further submitted that all other co-accused persons have already been enlarged on bail except the

petitioner who apprehends arrest in connection with the aforesaid case.

The learned Advocate for the State opposes the prayer for bail. It is submitted that the petitioner was avoiding arrest for a pretty long time and, therefore, it is a fit case where the prayer for anticipatory bail should be rejected.

After hearing the learned Advocates for the parties and upon perusal of materials-on-record, it appears that the order directing the execution of warrant of arrest, was stayed by the Court, which was operative till January 10, 2019. There was no question of absconsion as the petitioner was benefited with the order of stay and the arrest cannot be made in execution of the said order. Furthermore, all other co-accused persons have already been enlarged on bail and, therefore, we find no justification in not extending the same benefit to the petitioner as well. However, we show concern over the delayed trial. Obviously, the petitioner being aloof from appearing before the Court because of the interim protection granted by this Court, the trial could not be proceeded. We, therefore, feel that the direction upon the Sessions Judge is required to be passed to expedite the trial.

Since the petitioner stands on the same footing that of the other co-accused persons who have already been enlarged on bail, the prayer for anticipatory bail is **allowed**.

Accordingly, in the event of arrest the petitioner namely, **Aminul Islam**, shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer, on condition as laid down under Section 438(2) of

the Code of Criminal Procedure and on further condition that the petitioner shall attend the trial Court on every date of hearing until further order. Default on any solitary occasion without any justifiable cause shall disentitle the petitioner to the privilege of Section 438 of the Code of Criminal Procedure granted by this Court.

The application for anticipatory bail being **CRM 6896 of 2021** is thus **disposed of**.

There is no impediment in proceeding with the trial as the other co-accused has died in the meantime. The trial Court is requested to expedite the trial of the case and endeavour shall be shown to bring the same to its logical conclusion within eight months from the date of communication of this order.

The learned Advocates appearing for the prosecution as well for the petitioner assure this Court that they would assist and cooperate with the Sessions Judge in adhering to the time limit indicated here-in-above and shall not ask unnecessary adjournments except in unforeseen and unavoidable circumstances.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)