

SL. 31
10.11. 2021.
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(Allowed)

CRM 6907 of 2021

In Re : An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed on October 25, 2021 in connection with G.R.Case No. 52 of 2021 arising out of Gangarampur Police Station Case No. 23 of 2021 dated January 19, 2021 under Sections 341/326/307/302/34 of the Indian Penal Code and vide Charge Sheet have been submitted vide Charge Sheet No. 110 of 2021 dated April 14, 2021 under Sections 341/326/307/302/34 of the Indian Penal Code and Sections 3/ 4 of The Explosive Substances Act, 1908.

In the matter of : Sanjit Biswas & Anr.

... petitioner

Mrs. Jeenia Rudra
Mrs. Sahili Dey

..... for the petitioners.

Mr. Madhusudan Sur, APP
Mr. Dipankar Paramanick

..... for the State.

The Advocate-on-Record of the petitioners undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking the application is taken up for hearing.

Apprehending arrest in connection with G.R.Case No. 52 of 2021 arising out of Gangarampur Police Station Case No. 23 of 2021 dated January 19, 2021 under Sections 341/326/307/302/34 of the Indian Penal Code and in Charge Sheet has been submitted vide Charge Sheet No. 110 of 2021 dated April 14, 2021 under Sections 341/326/307/302/34 of the Indian Penal Code and Sections 3/ 4 of The Explosive Substances Act, 1908, the petitioners have filed the instant

application for anticipatory bail under Section 438 of the Code of Criminal Procedure.

Learned counsel appearing for the petitioners submits that out of 26 accused persons, 8 persons has already been enlarged on bail and the petitioners standing on the same footing should also be extended the benefit under Section 438 of the Code of Criminal Procedure. It is further submitted that the instant case has been filed because of political rivalry without attributing to a specific role in commission of an offence.

Learned counsel appearing on behalf of the State vehemently opposes the prayer for anticipatory bail. It is submitted that one of the co-accused namely, Mukesh Chandra Sarkar, who filed the application for anticipatory bail before this Court was denied the benefit under Section 438 of the Code of Criminal Procedure and, therefore, the application for anticipatory bail filed by the petitioners should also be dismissed.

After hearing the respective counsel and on perusal of the findings recorded by the Coordinate Bench in the order dated September 22, 2021 passed in CRM No. 2646 of 2021 we do not find any specific role attributable to the conduct of the petitioners in commission of an offence, simply because the eye-witness has named certain persons without indicating the specific role in commission of an offence, does not disentitle the person to a benefit of bail. We have perused the

statements of the eye-witness and we do not find any specific role divulge so far as the present petitioners are concerned. Our attention is further drawn to the statement of the one of the injured person wherein also the element of Section 302 is conspicuously absent. The victim suffered gun injury on the head and succumbed to death. The eye witnesses have revealed the name of the person who triggered the fire arm leading to the death of the victim and therefore the petitioners cannot stand on the same footing that of the principal accused. Further more, the charge sheet has already been submitted and the record does not reveal that the prosecution has sought for a leave to file supplementary charge sheet upon gathering further materials. Since the charge sheet has already been submitted and the specific role of the petitioners has not been divulged and not disclosed in the statement of eye witnesses, we do not find any justification in the custodial interrogation of the petitioners.

Accordingly, in the event of arrest the petitioners 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 petitioners to the privilege of Section 438 of the Code of Criminal Procedure granted by this Court.

The application for anticipatory bail being **CRM 6907 of 2021** is thus **allowed**.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)