

CRM 7419 of 2021
(via video conference)

Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with Tapan Police Station Case No. 05/2021 dated 05.01.2021 under Sections 341/307/34 of the Indian Penal Code read with Sections 25(1)(a)/27 of the Arms Act.

In the matter of : **Horish Basak @ Harish**

..... petitioner

Ms. Bushra Khatoon

....For the petitioner

Mr. Ranabir Roy Chowdhury

Mr. Sudip Chakraborty

.....For the State

The learned Advocate-on-record of the petitioner 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 Tapan Police Station Case No. 05/2021 dated 05.01.2021 under Sections 341/307/34 of the Indian Penal Code read with Sections 25(1)(a)/27 of the Arms Act, the petitioner has filed the instant application for anticipatory bail under Section 438 of the Code of Criminal Procedure.

Learned Advocate for the petitioner submits that initially a case was initiated under Sections 341/307/34 of the Indian Penal Code together with Sections 25(1)(a)/27 of the Arms Act, but at the time of filing the charge sheet, Section 307 of the Indian Penal Code was omitted and the petitioner has been shown as an accused for an offence under Sections

341/506/34 of the Indian Penal Code along with Sections 25(1)(a)/27 of the Arms Act.

According to the learned Advocate for the petitioner, the main Sections shown in the charge sheet are bailable in nature except the offence under the Arms Act. It is further submitted that the accused from whom the weapon was recovered, had already been enlarged on bail.

Learned Advocate for the State opposes the prayer for anticipatory bail. It is submitted that several persons ransacked the panchayat office with the weapons and the petitioner is one of such accomplice.

After hearing the respective submissions and on perusal of the materials on record, it appears that the person from whom the weapon was recovered, had already been granted bail. Furthermore, charge sheet has already been submitted omitting the offence under Section 307 of the Indian Penal Code. We do not find that any custodial interrogation of the petitioner is required. Accordingly, the prayer for anticipatory bail is allowed.

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 also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and also subject to the further conditions that the petitioner shall attend the trial Court on each and every date of hearing of the

case unless prevented by sufficient cause and in the event of his failure on any date without justifiable cause, the trial Court would be at liberty to cancel the bail without any further reference to this Court.

The application for anticipatory bail being **CRM 7419 of 2021** is, thus, **allowed**.

(Harish Tandon, J.)

(Rabindranath Samanata, J.)