

16.12.2021.
142.
as
(Allowed).

C.R.M. 7455 of 2021

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Hanskhali P. S. Case No.675 of 2021 dated 26.09.2021 under Sections 341/325/326/307/34/379 of the Indian Penal Code and Sections 25/27 of the Arms Act.

In the matter of : Bimal Kumar Biswas.

... Petitioner.

Mr. Sekhar Basu, Id. Sr. Adv.,
Mr. Kallol Mondal,
Mr. Satadru Lahiri.

...for the Petitioner.

Mr. Rudradipta Nandy.

.....for the State.

Heard the learned Senior Advocates appearing for the petitioner.

It is contended on behalf of the petitioner that there was a free fight by and between the parties and he has been falsely implicated in the instant case. It is further submitted his brother Tapan Biswas and nephew Debarshi Biswas received gun shot injury at the behest of the complainant and his party. Over this issue, Hanskhali Police Station Case No.679 dated 27.09.2021 under Sections 341/325/326/379/307/504 of the Indian Penal Code was registered for investigation.

Learned Advocate appearing for the State opposes the prayer for anticipatory bail and submits on the instigation of

the petitioner, co-accuseds had fired at the victims. Victims suffered bullet injuries.

We have considered the materials on record. Bullet injuries were suffered not only by the victims but also by Tapan Biswas and Debarshi Biswas, being the brother and nephew of the petitioner which probabalises a case of free fight by and between the parties. Possibility of false implication of the petitioner in view of pre existing enmity cannot be wholly ruled out. Petitioner is not the accused who fired the victims.

In view of the aforesaid facts, we are of the opinion whether the petitioner had shared common intention with the accused persons may be assessed in the light of the aforesaid facts and circumstances at the appropriate stage of the proceeding.

In view of the aforesaid factual backdrop, we are of the view custodial interrogation of the petitioner is not necessary and he may be granted anticipatory bail.

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, 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 and on further condition that the petitioner shall appear before the trial court and pray for regular bail within a period of four weeks from date.

This application for anticipatory bail is, thus, disposed
of.

(Bivas Pattanayak,J.)

(Joymalya Bagchi, J.)