

23.12.2021
Item no. 227
Court No.32
Avijit Mitra

C.R.M. 7621 of 2021

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

And

In Re : Mintu @ Samsujjaman & anr.

.... petitioners

Ms. Minoti Gomes

....for the petitioners

Mr. P.K. Dutta,

Mr. Subroto Roy

..... for the State

Apprehending arrest the instant application is filed in connection with Jalangi Police Station Case No.595 of 2019 dated 28.08.2019 under Sections 186/188/289/307/332/353/34 of the Indian Penal Code and 25/27 Arms Act and 3/4 E.S. Act.

Ms. Gomes, learned lawyer representing the petitioners submitted, that there are no strong incriminating materials against the present petitioners and they were not present on the spot also. Their names transpired from the statement of a co-accused who was arrested. According to Ms. Gomes, it is not necessary to detain the present petitioners in custody.

Per contra, learned lawyer representing the State Mr. Dutta submitted, that very strong incriminating materials are there against the present petitioners in the case diary showing that there exists a racket of cattle trespassing in a border area. The cattle trespassers attacked the BSF personnel with bombs

and arms. All the members of the cattle trespass gang are not known at present. So it cannot be said with certainty whether present petitioners were absent or present on the place of occurrence. According to Mr. Dutta, custodial detention is very much necessary to unearth further information in this regard. Accordingly, anticipatory bail is opposed.

We have heard rival submissions and perused the case diary. We have perused the statement of the witnesses, seizure list and other materials available in case diary. We find the allegations are very grave and serious involving armed attack upon B.S.F. personnel by the accused person in the course of perpetration of the alleged crime. Considering the seriousness of the offence and its gravity, we are not inclined to exercise our discretion.

Accordingly, the application for anticipatory bail being C.R.M. No.7621 of 2021 is dismissed.

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.)