

21.12.2021

Court No.32
rpan/07

C.R.M. 8236 of 2021

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

And

In re: **Sk. Nazimuddin @ Sekh Nazimuddin & 9 Others**
- Petitioners

Mr. Sandipan Ganguly, Lr. Sr. Adv.,

Mr. Sauvik Dere

... for the Petitioners.

Mr. Bidyut Kumar Roy,

Ms. Rita Datta

... for the State.

Mr. Prabir Mita,

Mr. Pinak Mitra,

Ms. Ariba Shahab

... for the *De facto* Complainant.

Apprehending arrest in connection with Rabindranagar Police Station Case No. 390 of 2021 dated 16.11.2021 under Sections 143/447/323/325/307/427/354/506 of the Indian Penal Code, the present application has been preferred.

Mr. Ganguly, learned senior advocate appearing for the petitioners submits that there was a family dispute between the parties as regards shares, sanitation facilities and passages. The petitioners have been falsely implicated. The allegations are omnibus in nature. The petitioner nos.1, 2 and 10 are the cousins; petitioner nos.3, 4, 5 and 6 are the nephews and the petitioner nos.7, 8 and 9 are the sisters-in-law of the *de facto* complainant. The petitioner no.8 had undergone a critical operation and is suffering from several ailments. There is no

likelihood that the petitioners would flee from justice or delay the trial by abscondence. In the said conspectus, custodial interrogation is not warranted.

Mr. Roy, learned advocate appearing for the State opposes the petitioners' prayer and draws our attention to the several documents in the case diary, including the injury reports.

Mr. Mitra, learned advocate enters appearance on behalf of the *de facto* complainant and opposes the petitioners' prayer.

Having heard the learned advocates appearing for the respective parties and considering the materials in the case diary, the nature of allegations, injury reports and the extent of complicity, we are of the opinion that custodial interrogation of the petitioner nos. 1, 4, 5, 7, 8, 9 and 10 is not necessary. As such, their prayer for anticipatory bail is allowed.

Accordingly, in the event of arrest the petitioner nos. 1, 4, 5, 7, 8, 9 and 10 namely, **Sk. Nazimuddin @ Sekh Nazimuddin, Fardin Gazi @ Akid Gazi @ Akibuddin Gazi, Eklak Laskar, Nadira Bibi @ Najira Bibi @ Najira Begam, Salama Bibi @ Salma Bibi @ Salama Bibi Shaikh, Rani Bibi** and **Sk. Azharuddin @ Sk. Azahar Uddin** shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, 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 with a further condition that the

petitioner nos.1, 5 and 10 shall meet with the Investigating Officer once a week till investigation is complete.

It is further directed that they shall attend the learned court below on the dates specified for hearing and shall not tamper with the evidence and/or intimidate the witnesses in any manner whatsoever.

In the event they fail to comply with the aforesaid directions, without any justifiable cause, the learned court below shall be at liberty to cancel their bail, in accordance with law, without further reference to this Court.

However, *prima facie*, there are strong incriminating materials against the petitioner nos.2, 3 and 6 and as such, we are not willing to exercise any discretion in their favour. Their prayer for anticipatory bail is refused.

With the aforesaid observations, the application for anticipatory bail, being CRM No. 8236 of 2021 is partly allowed.

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)