

08.02.2021
Item No.158
Ct.No.28
Subha.
rejected

C.R.M. 9505 of 2020

(Via Video Conference)

In Re : An Application for anticipatory bail under Section 438 of the Code of Criminal Procedure.

And

In the matter of : Monirul Islam

.....petitioner.

Mr. Sandipan Ganguly, sr. advocate

Mr. Md. Sabir Ahmed

Ms. Koel Mukherjee

Mr. Apan Saha

Mr. Sayan Mukherjee

... For the petitioner.

Mr. Sudip Ghosh

Mr. Bitasok Banerjee

... For the State.

Apprehending arrest in connection with Burdwan Police Station Case No. 79 of 2020 dated 01-03-2020 under Sections 302/201/34 of the Indian Penal Code, the present application has been filed.

Mr. Ganguly, learned senior advocate appearing for the petitioner submits that the petitioner has been falsely implicated in this case on mere conjectures and the same is attributed because of change of his political stand.

Learned advocate appearing for the petitioner further submits that unnecessarily because of a series of cases, the petitioner is being implicated and earlier in a similar nature

of offence, a co-ordinate Bench of this Court was pleased to allow anticipatory bail of this petitioner in CRM 10063 of 2020 (Monirul Islam –vs- The State) on 9th December, 2020.

Learned advocate for the petitioner further submits that the charge-sheet has already been submitted and there has been a deviation from the first information report and the facts narrated in the charge-sheet, which are completely different.

Mr. Ghosh, learned advocate appearing for the State produces the case diary and draws the attention of this court to the statement of four witnesses.

Learned advocate for the State additionally submits that there are materials appearing against the present petitioner and the antecedents of the petitioner is not above board and he has been evading the process of law as such, warrant of arrest has been issued against him after completion of investigation.

We have perused the materials in the case diary and we find that out of eight co-accused persons so named in the first information report, seven of the accused persons have been discharged from the case. Further that the tenor of the allegations in the first information report are completely different to the subsequent investigation which has been conducted and the conclusion arrived at. Even the accused persons who have been named in the charge-sheet are different set of accused persons. Surprisingly, in both

the FIR and in the charge-sheet the petitioner has been shown to be a conspirator.

Having regard to the nature of evidence appearing against the present petitioner in the case diary relied upon by the State, we are of the opinion that as the investigation has been concluded, the custodial detention of the petitioner is unwarranted. As such, prayer for anticipatory bail of the present petitioner is *allowed*.

Accordingly, we allow the application for anticipatory bail and direct that in the event of arrest, the petitioner, **Monirul Islam** 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 and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

This order of anticipatory bail will remain in force for a period of six weeks from date.

The application for anticipatory bail, being CRM 9505 of 2020 is, thus, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)