

12.03.2021

CRM 11014 of 2020

Court No.02
Item No.129
(ALLOWED)

akd

In Re:- An application for bail under section 438 of the Code of Criminal Procedure filed on 21.12.2020 in connection with Murshidabad Police Station Case No. 158/2020, dated 07.05.2020 under Sections 341/326/307/302/34 of the Indian Penal Code (G.R. Case No. 1257/20).

And

In the matter of : **Sadu Bibi & Ors.**

...Petitioners.

**Mr. Ayan Bhattacharjee,
Mr. Mir Anowar,
Mr. Sharequl Haque,
Mr. Subhajit Manna.**

...For the Petitioners.

**Mr. Swapan Banerjee,
Mr. Suman De.**

...For the State.

Apprehending arrest in connection with Murshidabad Police Station Case No. 158/2020 under Sections 341/326/307/302/34 of the Indian Penal Code, the petitioners have filed the instant application for anticipatory bail under Section 438 of the Code of Criminal Procedure.

It is submitted by the learned Advocate appearing for the petitioners that the dispute arose over filling up a dig/pond by soil in making a road between the parties. The present first information report has been lodged as a counter-blast to the earlier first information report. It is further submitted that the main accused, namely Shilan Sk., is in custody.

On the other hand, the learned Advocate for the State opposes the prayer for anticipatory bail saying that all of them collectively participated in the alleged crime.

We have heard the submissions so advanced by the respective parties and perused the materials available in the case diary, more particularly the statements made under Section 161 of the Code of Criminal Procedure, wherefrom it appears that fatal blow was at the instance of Shilan Sk. and as such the petitioners do not stand on the same footing as that of Shilan Sk. and, therefore, we feel that the

custodial interrogation of the petitioners may not be required at this stage. Therefore, the petitioners are entitled to get the privilege of anticipatory bail.

In the event of arrest the petitioners shall be released on bail on 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 of the concerned police station with condition that the petitioners shall co-operate with the Investigating Officer during investigation and shall make themselves personally available as and when called for and with further condition that the petitioners shall attend on each day when the matter would be fixed before the Sessions Judge and the default on any solitary occasion without any justifiable cause may disentitle the petitioners from getting privilege of anticipatory bail and also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

The application for anticipatory bail, being CRM 11014 of 2020, is thus **allowed**.

(Harish Tandon, J)

(Kausik Chanda, J.)