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Partly allowed

C.R.M.(A) No. 63 of 2022
(via video conferencing)

In Re.: An application under Section 438 of the Code of Criminal Procedure in connection with Kumarganj Police Station Case No. 120 of 2021 dated 18.08.2020 under Sections 448/323/326/304/34 of the Indian Penal Code.

And

In Re : Niren Kisku & Ors. petitioners

Mr. Debasish Banerjee
Mr. Subrata Saha

... for the petitioners

Mr. Sujan Chatterjee

... for the State

It is submitted by the learned Counsel appearing for the petitioners that they have been falsely implicated in the instant case.

Learned Counsel appearing for the State opposes the prayer for anticipatory bail.

We have considered the materials on record. A commotion occurred in the locality as the villagers objected to one Santana Mardi and Prosenjit Mondal gossiping with one another in the house of one Basanti Mardi. They assembled and some of them assaulted the couple. Basanti Mardi, in whose

house the aforesaid persons were gossiping, was also assaulted and expired.

Having considered the statements of the witnesses particularly the statements of the injured Santana Mardi and Prosenjit Mondal recorded under Section 164 of the Code of Criminal Procedure, we note that petitioner no 1 has been named by the injured witnesses as one of the assailants. Although petitioner nos. 2 and 3 have been named by other witnesses, their participation in the assault is significantly absent in the statements of the aforesaid injured witnesses recorded under Section 164 of the Code of Criminal Procedure.

In view of the aforesaid facts and circumstances, we are not inclined to grant anticipatory bail to the petitioner no. 1.

The application for anticipatory bail in so far as petitioner no. 1 concerned is, thus, rejected.

However, keeping in mind the extent of complicity of the petitioner nos. 2 and 3 in the alleged crime and as their names do not transpire from the statements of injured witnesses under Section 164 of the Indian Penal Code, we are inclined to grant anticipatory bail to them.

Accordingly, we direct that in the event of arrest the petitioner nos. 2 and 3 namely Sadhina Mardi and Sonamoni Soren respectively shall be released on bail upon furnishing a bond of Rs.10,000/- each, with two sureties of like amount each, to the satisfaction of the arresting officer and also be subject to the conditions as laid down under Section 438(2) of

the Code of Criminal Procedure, 1973 and on further condition that they shall appear before the court below and pray for regular bail within a period of four weeks from date.

Accordingly, application for anticipatory bail is allowed so far as petitioner nos. 2 and 3 namely Sadhina Mardi and Sonamoni Soren respectively are concerned.

(Bibhas Ranjan De, J.)

(Joymalya Bagchi, J.)