

04.02.2022

Court No.32
rpan/21

C.R.M. (A) 126 of 2022

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed in connection with Manikchak Police Station Case No459 of 2021 dated 12.11.2021 under Sections 447/ 325/ 326/ 307/ 354/ 379/ 506/34 of the Indian Penal Code, 1860;

And

In re: **Shankar Mandal & 4 Others**

- Petitioners

Mr. Debabrata Mondal (through v.c.),

Ms. Sreetama Neogi

... for the Petitioners.

Mr. Sadhu Sudan Sur,

Mr. Manoranjan Mahata

... for the State.

Mr. Mondal, learned advocate appearing for the petitioners, submits that the petitioner no.5 has already expired and as such, the present application, so far as the said petitioner is concerned, is dismissed as 'infructuous'.

He further submits that the petitioners have been falsely implicated in view previous enmity pertaining to possession of a plot of land. A civil suit is also pending between the parties. A counter-case has also been filed. No specific overt act has been attributed to the petitioners and in the said conspectus, the petitioners may be granted anticipatory bail.

Mr. Sur, learned Additional Public Prosecutor appearing for the State opposes the petitioners' prayer and draws our attention to the statements of the injured witnesses, the injury report and other materials in the case diary. Answering our

query, he submits that there had been no recovery and no statement under Section 164 of the Code was recorded.

Heard the learned advocates and considered the materials in the case diary.

Prima facie, it appears that no specific overt act has been attributed to the petitioners and in view of the subsisting civil suit, previous enmity and the counter-case, possibility of false implication of the petitioners cannot be totally ruled out. Considering the nature of accusations, injury report and the possible extent of complicity of the petitioner nos. 1-4 in the alleged offence, we are of the opinion that custodial interrogation is not necessary. In view thereof, prayer for anticipatory bail is allowed.

Accordingly, in the event of arrest the petitioner nos.1-4, namely, **Shankar Mandal, Arjun Mandal, Ajoy Mandal** and **Bijoy @ Bacchu Mandal** 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.

It is further directed that the petitioner nos. 1-4 shall attend the learned trial court on all the dates specified for hearing and shall not tamper with the evidence and/or intimidate the witnesses in any manner whatsoever.

It is made clear that in the event the petitioner nos.1-4 fail to comply with the aforesaid directions, without any justifiable cause,

the learned trial court shall be at liberty to cancel their bail, in accordance with law, without further reference to this Court.

With the aforesaid observations, the application for anticipatory bail, being CRM (A) 126 of 2022 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.)