

CRM (A) 289 of 2022
(via video conference)

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

In the matter of : **Firoj Mallick & Ors.**

..... petitioners

Mr. Krishan Ray
Mr. Anindya Ghosh

.....For the petitioners

Mr. S. S. Imam
Mr. R. Jana

.....For the State

Apprehending arrest in connection with Rajapur Police Station Case No. 240 of 2021 dated 08.09.2021 under Sections 341/325/326/354B/379/307/427/506/34 of the Indian Penal Code, the present application has been preferred.

Mr. Ray, learned lawyer appearing for the petitioners submitted that there was mutual hostilities between the parties for which free fight between them took place. Both the parties sustained injuries in such free fight, in particular, three of the present petitioners sustained serious injuries. It is further submitted by the learned lawyer that investigation is pending since long and custodial detention is not necessary. Accordingly, he prays for anticipatory bail on any stringent condition.

Per contra, Mr. Imam, learned lawyer appearing for the State submitted that there were serious injuries occasioned to the victims in this case. Inviting our attention to the

injury report, it is submitted that serious injury was sustained by the victim as a result of assault by the petitioners. Statements of the witnesses as well as of the victim recorded under Section 161 as well as Section 164 of the Code of Criminal Procedure contain strong incriminating materials against the present petitioners. Since investigation is pending, prayer for anticipatory bail is strongly opposed.

We have heard the rival submissions and perused the case diary and other materials. Injury report mentions simple injury and does not corroborate the statement of the witnesses fully so far as nature of injury is concerned. Investigation is pending since September, 2021 and the present petitioners are not yet arrested. Accordingly, we are of the considered opinion that custodial detention of the present petitioners may not be necessary at this belated stage of investigation. Accordingly, we are inclined to allow the prayer for anticipatory bail.

Accordingly, we allow this application and direct that in the event of arrest the petitioners, namely, **Firoj Mallick, Faruk Mallick, Kalo Mallick @ Aruf Mullick, Yousuf Mallick, Miran Mallick @ Imran Mallick, Dulal Mallick @ Musran Mallick, Ruhul Jamadar, Hasiruddin Jamadar, Entajul Jamadar @ Antajul, Giasuddin Jamadar, Safique Mallick @ Safirul Mallick** and **Abdullah Mallick** 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 petitioners shall not tamper with the evidence and/or intimidate the witnesses. They shall also attend learned Court below on all the dates, as specified for hearing.

In the event the petitioners 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.

The application for anticipatory bail, being CRM (A) 289 of 2022, is, thus, disposed of.

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.)