

Sl. 9  
15.03.2022  
Court No.32  
SD

CRM(A) 428 of 2022

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure;

And

In the matter of: Payal Majumdar @ Payal Mujimdar @ Avijit Majumder @  
Payel  
... Petitioner.

*Mr. Kallol Mondal*  
*Mr. Souvik Das*

*...for the Petitioner.*

*Mr. Madhusudan Sur*  
*Mr. Dipankar Paramanick*

*...for the State.*

Apprehending arrest in connection with Nimta Police Station Case No.598 of 2021 dated 01.08.2021 under Sections 302/201/120B/34 of the Indian Penal Code, 1860 read with Sections 25/27/35 of the Arms Act, the petitioner has filed the present application, praying for anticipatory bail.

Mr. Kallol Mondal, learned lawyer appearing for the petitioner submitted that the present petitioner, namely, Payel was not present on the place of occurrence. She might have enmity with the deceased but she had no active role to play in commission of murder of the victim. It is alleged against her in a subsequent case that she influenced and assaulted the principal witness of this case. But in that case also she obtained bail from the Court of ACJM, Barrackpore. He further submitted that since Charge Sheet has been filed, further custodial detention of the present petitioner is not necessary. Another co-accused, namely, Sangita in on anticipatory bail granted by the Coordinate Bench. Accordingly, he prays for anticipatory bail on any stringent condition.

Mr. Madhusudan Sur, learned lawyer appearing for the State, vehemently opposed the bail application on the ground that very grave and serious allegation is involved in this case as well as in a subsequent case where the eye witnesses were not only threatened but also assaulted by a group of persons including the present petitioner. Her conduct is culpable and she had enmity with the victim of this case. She might be one of the conspirators. According to him, even though Charge Sheet has been filed, the present petitioner should not be allowed anticipatory bail.

We have heard rival submissions and perused the case diary.

On perusal of the case diary and statement of the witnesses, it appears that the present petitioner had enmity with the victim. There are materials in this regard. It also appeared that the other co-accused who was allowed anticipatory bail granted by a Coordinate Bench, is also similarly situated as with the present petitioner.

It appears from the statement of witnesses and specially the eye witnesses that the present petitioner was not there in the place of occurrence. Whether the petitioner is actually a conspirator or not is to be decided at the time of trial and should not be prejudged at this stage.

Considering the statement of witnesses, complicity of the present petitioner in that alleged offence and the fact that charge sheet has been filed for which custodial detention is not necessary for interrogation, we are inclined to grant anticipatory bail to the petitioner.

Accordingly, we direct that in the event of arrest the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/-, 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 condition that the petitioner shall appear

before the jurisdictional court on every date fixed and pray for regular bail within a period of four weeks from date.

The application for anticipatory bail, being CRM(A) 428 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.)**