

15.03.2022
Item no.37
Court No.32
Avijit Mitra

C.R.M.(A) 726 of 2022

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with Baishnabnagar Police Station Case No.432 of 2020 dated 20.08.2020 under Sections 447/324/326/354B/307/34 of the Indian Penal Code;

And

In Re : Samjad @ Samjad Ali & ors.

.... petitioners

Ms. Minoti Gomes,
Mr. Musharraf Alam Sk.

....for the petitioners

Mr. P.K. Datta,
Mr. Santanu Deb Roy

...for the State

Ms. Gomes, learned lawyer appearing for the Petitioner submitted that the present complaint is result of mutual hostilities. There was a free fight in which both the parties sustained injuries. Since chargesheet has been filed, their custodial interrogation is not necessary. Therefore, Ms. Gomes prays for anticipatory bail of the present petitioner nos.1 and 3 to 11.

Since petitioner no.2 namely, **Habibur Rahaman**, has been arrested, his application for anticipatory bail is dismissed as 'not pressed'.

Mr. Deb Roy, learned lawyer representing the State objected to the anticipatory bail on the ground that severe injuries were sustained by the victim. Although investigation is complete,

considering the seriousness of the allegation he opposes the anticipatory bail application.

We have heard the rival submissions and perused the case diary. As submitted by Ms. Gomes, so far as the other petitioners are concerned, chargesheet has been filed. Therefore, their custodial interrogation is not necessary.

Offensive weapons have already been seized. There is no scope of custodial detention for interrogation as investigation is complete. The nature of injury is serious but that *ipso facto*, does not speak of murderous assault, apparently.

Considering the nature of incriminating elements, seriousness of offence, complicity of the present petitioners, and further considering that Charge Sheet has been filed on completion of investigation, we are inclined to allow anticipatory bail.

Accordingly, we direct that in the event of arrest, the petitioners namely, **Samjad @ Samjad Ali, Shamim Sk. @ Samim Akhtar, Ejajul Sk. @ Ejajul Rahamgo, Makim Sk. @ Abdul Mokim, Kabir Sk. @ Kabir Sekh, Dalim Sk., Mafuj Sk. @ Mahafuj Alam, Dalim Sk. @ Rejaul Sekh, Hanif Sk. @ Hanif Sekh and Rabiul Sk. @ Rabi** shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only) each with two sureties of like amount each, 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.

The petitioners nos.1 and 3 to 11 shall attend the learned Trial Court on all the dates as specified for hearing.

The petitioner nos.1 and 3 to 11 shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner nos.1 and 3 to 11 fail to comply with the aforesaid directions without any justifiable cause, the learned Trial Court would be at liberty to cancel the bail of petitioner nos.1 and 3 to 11 without any further reference to this Court.

Accordingly, the application for anticipatory bail being C.R.M.(A) 726 of 2022 is 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.)