

20.01.2022
Item no. 242
Court No.32
Avijit Mitra

C.R.M. 3534 of 2021 (Through Video Conferencing)

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

And

In Re : Mojibar Rahaman @ Majibar Rahaman

.... petitioner

Mr. Sourav Chatterjee,
Mr. Tapodip Gupta

....for the petitioner

Ms. Faria Hossain,
Mr. Aniket Mitra

..... for the State

Mr. G.M. Imrohi

...for the *de facto* complainant

Apprehending arrest in connection with Jalangi Police Station Case No.47 of 2020 dated 30.01.2020 under Sections 302/34 of the Indian Penal Code and Sections 25/27 of the Arms Act, the present application has been preferred.

Mr. Chatterjee, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated on a purported plea that he had been in the group which attacked and assaulted several persons. No specific overt act has been attributed to the petitioner. Upon completion of investigation chargesheet has already been submitted. Co-accused persons, similarly situated with the petitioner, had also been granted anticipatory bail. In the said conspectus, the petitioner may be granted anticipatory bail on any stringent condition.

He further submits that a proclamation was issued against the petitioner and the said order was challenged before

this Court by filing a revisional application. By an order dated October 20, 2020, the said application was allowed.

Mr. Mitra, learned advocate appearing for the State opposes the petitioner's prayer and submits that subsequent to the order passed in the revisional application, a fresh proclamation was issued. Some co-accused persons have been refused anticipatory bail as well as regular bail and there are strong incriminating materials against the petitioner and as such, he is not entitled to the relief as prayed for. Let the orders, as placed, be kept on record.

Mr. Imrohi, learned advocate enters appearance on behalf of the *de facto* complainant and opposes the petitioner's prayer.

In reply, Mr. Chatterjee submits that the subsequent proclamation order was issued during pendency of the present application. The petitioner had no nexus with the firing and the co-accused persons refused bail standing entirely on a different footing.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

Prima facie, the allegations appear to be omnibus in nature. No specific overt act has been attributed to the petitioner. Considering the manner in which the offence has taken place and the extent of complicity of the petitioner, we are of the opinion that his custodial interrogation is not necessary

more so when, upon completion of investigation chargesheet has been submitted and the case has been committed for trial.

Accordingly, we direct that in the event of arrest, the petitioner namely, **Mojibar Rahaman @ Majibar Rahaman**, shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only) 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 petitioner shall attend the learned Trial Court on all the dates as specified for hearing.

The petitioner shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner fails to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel the petitioner's bail without any further reference to this Court.

The application for anticipatory bail being C.R.M. 3534 of 2021 is disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Ajoy Kumar Mukherjee, J.) (Tapabrata Chakraborty, J.)

