

29.06.2022

Sl. 61

Court No.29

(AD)

(Rejected)

C.R.M. (A) 3057 of 2022

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Canning** Police Station Case No. **494 of 2021** dated **21.11.2021** under Sections **302/379/34** of the Indian Penal Code and Sections **25/27/35** of Arms Act.

And

In the matter of: **Shambhu Mondal**

....petitioner.

Mr. Subhabrata Chowdhury

...for the petitioner.

Mr. Saswata Gopal Mukherji, Ld. PP

Mr. Madhusudan Sur, Ld. APP

Mr. Manoranjan Mahata

...for the State.

Petitioner prays for anticipatory bail.

Learned Advocate appearing for the petitioner submits that two of the co-accuseds were enlarged on bail by the Coordinate Bench of this Hon'ble Court. He refers to the order dated June 8, 2022 passed in CRM (DB) 1370 of 2022. He also refers to the order dated June 15, 2022 passed in CRM (DB) 1787 of 2022. He submits that the petitioner stands in the same footing as that of the Panchu Sanfui and Malay Mondal @ Moloy Mondal who were enlarged on bail by the Coordinate Bench.

Learned Public Prosecutor refers to the statement of the eye-witness recorded under Section 164 of the Code of Criminal Procedure. He submits that the petitioner cannot claim parity with the two other co-accuseds.

Moreover, such co-accuseds were granted bail. The prayer for anticipatory bail of such co-accuseds were turned down earlier.

Learned Advocate appearing for the petitioner submits

that the proclamation of warrant of arrest was stayed by the revisional Court in CRR 736 of 2022. In support of such contention, he relies upon the order dated June 17, 2022.

It appears from the record that the process for declaring the petitioner as a proclaimed offender was stayed by the order passed by the revisional Court dated June 17, 2022 by staying the order of the learned jurisdictional Court of proclamation and attachment till July 12, 2022.

The learned Coordinate Bench granted bail to a co-accused Panchu Sanfui on June 8, 2022 in CRM (DB) 1370 of 2022. While granting bail to such co-accused, the Coordinate Bench considered the materials in the case diary and returned a finding with regard to the involvement of Panchu Sanfui therein. The Coordinate Bench kept in mind the materials in the case diary as against the Panchu Sanfui, extent of complicity of Panchu Sanfui in the alleged crime and the period of detention suffered by him and proceeded to enlarge Panchu Sanfui on bail.

Here the petitioner before us is seeking anticipatory bail. There is an order of proclamation and attachment which is under stay passed by the revisional Court. The revisional application was disposed of by granting stay till July 12, 2022 without the order of proclamation and attachment challenged in the revisional Court, not being set aside on any ground whatsoever. The same was merely stayed till July 12, 2022.

In such conspectus and considering the involvement of the petitioner in the incident as transpiring from the materials in the case diary and the long absconsion of the petitioner therein and the issuance of the order of proclamation and attachment,

we are unable to enlarge the petitioner on anticipatory bail.

Accordingly, the prayer for anticipatory bail of the petitioner is rejected.

C.R.M. (A) 3057 of 2022 is dismissed.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)