

04.01.2022
Item no. 248
Court No.32
Avijit Mitra

C.R.M. 7717 of 2021

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

And

In Re : Alok Kundu

.... petitioner

Mr. Suman Chakraborty

....for the petitioners

Mr. S.G. Mukherjee, Ld. P.P.,

Ms. Trina Mitra

..... for the State

Apprehending arrest the instant application is filed in connection with Balagarh Police Station Case No.120 of 2021 dated 04.05.2021 under Sections 341/325/326/307/379/120B of the Indian Penal and Sections 25/27 of the Arms Act, praying for protection from custodial detention.

Mr. Chakraborty, learned lawyer representing the petitioner submitted, that one of the co-accused was granted anticipatory bail by a Coordinate Bench of this Hon'ble Court. The present petitioner is on the same footing with that of the accused person. Therefore, anticipatory bail may be granted to the present petitioner as he stands on the same footing.

Per contra, Mr. Mukherjee, learned Public Prosecutor representing the State submitted, that strong incriminating elements are there in the case diary and the statement of the witnesses in particular that of the injured and the injury report reveal strong incriminating elements against the accused person. However, he candidly admitted that the present petitioner has no direct complicity in the commission of offence

except instigation. Accordingly, Mr. Mukherjee strongly opposed the anticipatory bail.

We have heard rival submissions and perused the case diary. From the statement of the witnesses it appears that Bechu Nayek who has earlier been granted anticipatory bail by a Coordinate Bench of this Court and the present petitioner are on the same footing to the extent that they instigated and incited the accused persons in commission of offence without committing any overt act and assault or causing injury. Although investigation is pending, we are inclined to allow the anticipatory bail to the present petitioner considering the fact that custodial detention is not necessary and that the incriminating elements against the present petitioner is almost the same as with the co-accused who had already been granted anticipatory bail.

Accordingly, we direct that in the event of arrest, the petitioner, namely, **Alok Kundu**, shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only) 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.

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. 7717 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.

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)