

CRM No.8363 of 2021

Via video conference

10.02.22

(S.R.)

Sl.188

Ct.32

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Islampur** Police Station Case No.775 of 2020 dated 12/12/2020 under Sections 341/325/307/34 of the Indian Penal Code and Sections 25/27 of the Arms Act;

And

**In re: Samsuzzaman Mandal @ Samsujjaman Mondal @ Pola & Anr.
... petitioners.**

Mr. Debapriya Samanta

... for the petitioners.

Mr. Shataroop Purakayastha

...for the State.

Mr. Samanta, learned lawyer appearing for the petitioners submitted that another co-accused from whom offending firearm was recovered has been granted bail. No such offending firearm has been seized from the present petitioners. Therefore, the present petitioners are in better footing and custodial detention is not necessary. He further submitted that the present petitioners have not used any firearm; only free fighting ensued between the present petitioners and the victim. All the allegations levelled against the present petitioners are false. Accordingly, anticipatory bail is prayed for.

Per contra, Mr. Purakayastha, learned lawyer appearing for the State submitted that strong incriminating elements are there against the present petitioners. Inviting our attention to the statements of witnesses and injury report, he strongly opposes the bail application.

We have heard the rival submissions and perused the case diary.

It appears from the statements of witnesses that the present petitioners assaulted the victim with firearm. Injury report corroborates bullet injuries and the eyewitnesses identified the present petitioners as assailants. It shows complicity of the petitioner in the alleged offence. The statements of the witnesses also indicate that firearms

were used by the present petitioners, which are not seized as yet. Custodial detention may be necessary for that purpose.

Considering the facts that the allegations are very grave and serious and the present petitioners have complicity in the alleged offence, we are not inclined to allow anticipatory bail even though charge sheet has been filed.

Accordingly, the application for anticipatory bail being CRM No.8363 of 2021 is dismissed.

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.)