

17.02.2022

Court No.32
rpan / 197

CRM 8443 of 2021

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

And

In Re.: **More Selim Sk. & 5 Others**

- Petitioners.

Mr. Sekhar Kumar Basu, Ld. Sr. Adv.,
Mr. Ranadeb Sengupta,
Ms. Suchismita Dutta,
Mr. Sachit Talukdar
... for the Petitioners.

Mr. Y. J. Dastoor, Ld. ASG,
Mr. Phiroze Edulji,
Mr. Samrat Goswami
... for the CBI.

Mr. Soumak Bera
... for the De Facto Complainant.

Apprehending arrest in connection with Mallarpur Police Station Case No.101 of 2021 dated 16.05.2021 under Sections 341/325/304/34 of the Indian Penal Code, 1860 [subsequently re-registered as CBI/SCB/Branch Case No.: RC056202150020 DATED 27.08.2021], the petitioners have filed the present application.

Mr. Basu, learned senior advocate appearing for the petitioners submits that the petitioners have been falsely implicated in view of political rivalry. The alleged incident occurred on 8th May, 2021, however, the complaint was registered on 16th May, 2021. The petitioners herein have not been named in the FIR. They may have been a part of the mob and they have been roped in on the basis of suspicion. Mr. Basu further submits

that the statements of the witnesses were surprisingly recorded about three months after the alleged incident and in view of such delay possibility of an exaggerated account of the incident cannot be ruled out. As such, the petitioners may be granted anticipatory bail.

Mr. Dastoor, learned Additional Solicitor General, assisted by Mr. Edulji, learned advocate, appearing for the CBI submits that from the statements of the eyewitnesses it would be explicit that the petitioners had a direct involvement in the alleged offence. The matter pertains to post poll violence and the investigation has been handed over to the CBI on 27th August, 2021. Investigation is still continuing. He further submits that anticipatory bail application of other co-accused persons was rejected by this Bench on 17th December, 2021.

In reply, Mr. Basu submits that the petitioners are not similarly situated with the said co-accused persons, as the names of the petitioners herein do not feature in the FIR.

Mr. Bera, learned advocate, enters appearance on behalf of the *de facto* complainant and opposes the petitioners' prayer for anticipatory bail.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary, including the injury report and the statements of the witnesses. A composite reading of the statements of the said witnesses, *prima facie*, reveals the direct involvement of the petitioners in the alleged offence. Considering the nature of accusation and the nature of injuries to which the person ultimately succumbed, we are not inclined to

exercise discretion in favour of the petitioners. As such, their prayer for anticipatory bail is refused.

The application for anticipatory bail, being CRM 8443 of 2021 is, thus, 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.)