

CRM No.8458 of 2021

Via video conference

14.01.22

(S.R.)

Sl.28

Ct.32

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Barabani** Police Station Case No.126 of 2021 dated 09/08/2021 under Sections 341/323/325/385/387/120B of the Indian Penal Code and Sections 25/27 of the Arms Act;

And

In re: Rahim Saji & Ors.

... petitioners.

Ms. Sreyashee Biswas

...for the petitioners.

Mr. Shiladitya Banerjee

... for the State.

Ms. Biswas, learned advocate appearing for the petitioners submits that the petitioners have been falsely implicated. Their names did not feature in the FIR and the ingredients of Sections 385 and 387 are not attracted against the petitioners. In the said conspectus, custodial interrogation may not be necessary and they may be granted anticipatory bail on any stringent condition.

Mr. Banerjee, learned advocate appearing for the State opposes the petitioners' prayer and draws our attention to the statements of the witnesses and submits that the petitioners are absconding. Answering a query of this Court, he submits that there is no injury report and that investigation is not complete.

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

There is no injury report on record. Whether the alleged acts of the petitioners would, *per se*, attract the ingredients of Sections 385 and 387 is a matter to be decided at the appropriate stage of the proceeding. Considering the manner in which the offence has taken place, the nature of accusations and the extent of complicity of the

petitioners in the alleged offence, we are of the opinion that their custodial interrogation is not necessary.

Accordingly, we direct that in the event of arrest the petitioners, namely, **1. Rahim Saji, 2. Sk. Amaruddin, 3. Sk. Ismail @ Ismail Rahaman Molla, 4. Alauddin Saji and 5. Phulchand Saji** will be released on bail upon furnishing a bond of Rs.10,000/- each 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 with a further condition that the petitioners shall not enter the jurisdiction of Barabani Police Station save and except for meeting with the investigating officer of the case once in a week till the investigation is complete and shall intimate the address where they would be residing to the investigating officer immediately.

It is further directed that the petitioners shall not intimidate the witnesses or tamper with evidence in any manner whatsoever.

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

The application for anticipatory bail being CRM No.8458 of 2021 is, accordingly, disposed of.

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

(Md. Nizamuddin, J.)

(Tapabrata Chakraborty, J.)