

VB
38. 21.10.2022
Ct.28 Tanmoy/TN

Rejected

CRM (A) 4946 of 2022

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 in connection with **Pukhuria Police Station Case No. 150 of 2018** dated **06.05.2018** under Sections **364/302/201/120(B)** of the Indian Penal Code, 1860 read with Section **27** of the Arms Act, 1959 along with Section **9(b)** of the Indian Explosive Act, 1884.

And

In the matter of: - **Washim Akram**

...petitioner.

Mr. Sudipta Moitra, Ld. Sr. Adv.,
Mr. Avinaba Patra,
Mr. Partha Sarathi Das,
Mr. Dwaipayan Biswas,
Mr. Souraja De

...for the petitioner.

Mr. Rudradipta Nandy, Ld. A.P.P.,
Mr. Bitasok Banerjee

...for the State.

Mr. Bikram Banerjee,
Mr. Sutirtha Nayek

...for the *de facto* complainant.

On the basis of a written complaint submitted on 6th May, 2018, alleging, *inter alia*, that as many as twenty two numbers of F.I.R. named accused persons hurled bomb and fired at the elder brother of the *de facto* complainant causing his murder, Pukhuria Police Station Case No. 150 of 2018 was registered. Police submitted charge-sheet in the said case against two accused persons who were not named in the F.I.R. discharging the aforesaid twenty two F.I.R. named accused persons. It is pointed out by the learned Senior Advocate on behalf of the petitioner that the

petitioner was not sent up for trial as there was no material against him and he was not even named in the F.I.R. In the year 2020, the *de facto* complainant filed a *naraji* petition. It was allowed on 2nd August, 2021 permitting further investigation of the case by the CID. CID submitted supplementary charge-sheet on 6th June, 2022. In the said supplementary charge-sheet, the present petitioner was sent up for trial.

It is submitted by the learned Senior Counsel that during investigation Police interrogated as many as sixty five witnesses. The said charge-sheeted witnesses did not state even a single word against the petitioner. The allegation levelled against the petitioner in the supplementary charge-sheet is to the effect that the present petitioner hurled bomb to the deceased. However, no injury caused by explosive substance was found in the body of the deceased. There was only one bullet injury found on the person of the deceased and from the materials on record it suggest that it was allegedly fired by one Sadek. Therefore, it is submitted by the learned Senior Counsel on behalf of the petitioner that the petitioner is entitled to anticipatory bail in the instant case.

It appears from the materials in case diary that the Investigating Agency was in hands-in-gloves with the political masters and purposefully registered Pukhuria Police Station Case No. 150 of 2018 against some innocent persons only to screen the real offenders. Subsequently, it came before the notice of this Court and on the basis of an order passed by this Court Special Investigation Team (SIT) of CID, West Bengal took up the case for investigation. During investigation, the statements of the material

witnesses were recorded under Section 164 of the Code of Criminal Procedure, 1973. Only then truth came out and involvement of the present petitioner transpired. It is further submitted by the learned Advocate for the State that this case is a glaring instance where the political party in power controlled the direction of investigation and the real offenders were attempted to go scot-free without trial.

We have heard learned Counsel for the parties. We have also meticulously perused the case diary. If the contents of the supplementary charge-sheet filed by the CID are accepted, then it is found that the present petitioner and three others called the deceased and took him away from his house and subsequently, he was found murdered by gunshot injury. There may be only one gunshot injury and that too, might have fired by one Sadek. However, the evidence collected by the CID at the subsequent stage of investigation establishes complicity of the present petitioner in the instant case. Therefore, we are not in a position to grant anticipatory bail to the accused.

Prayer for anticipatory bail is, thus, rejected.

The application being CRM (A) 4946 of 2022 is dismissed.

(Bibek Chaudhuri, J.)

(Prasenjit Biswas, J.)