

**17.10.2022**  
**Court No.28**  
**D/L 180**  
**ab/ sb**

**CRM(A) 4975 OF 2022**

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 in connection with Samsherganj Police Station Case No. 251 of 2020 dated 05.01.2020 under Sections 448/325/302/307/34 of the Indian Penal Code and Sections 3/4 of the Explosive Substance Act and Section 25 of the Arms Act.

In the matter of: **Md. Rafik alias Rafikul Islam**

**. . . . .Petitioner.**

Mr. Kusal Kumar Mukherjee  
Mr. Surojit Basu

... For the Petitioner

Mr. Arijit Ganguly  
Mr. Subrata Roy

..... for the State

The petitioner pleads that he has been falsely implicated. It has further been submitted that a mob attack took place on 5<sup>th</sup> November, 2020 and 38 persons have been charge-sheeted. Out of 38 charge-sheeted persons, 24 persons were granted anticipatory bail/bail.

The prayer of the petitioner is opposed by the learned counsel appearing for the State.

We have considered relevant parts of the case diary. Reliance has been placed on behalf of the State on section 161 statement being part of the case diary, which implicates the petitioner. We are unable to accept the contention of the State respondents since the statement

is made under Section 161 of the Code of Criminal Procedure, which does not have evidentiary value.

In consideration of the materials available in the case diary and taking into account the extent of complicity of the petitioner in the commission of alleged offence, we are inclined to grant anticipatory bail.

In the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer. The petitioner shall be subjected to the conditions of Section 438(2) of the Code of Criminal Procedure and shall make himself available for investigation as and when required. The petitioner shall not intimidate any witness or tamper with any evidence in any manner whatsoever.

In the event, the petitioner fails to comply with these directions, the Court below shall be at liberty of cancelling this order without further reference to this Court.

The application being CRM (A) 4975 of 2022 is allowed and disposed of in terms of the above.

**(Saugata Bhattacharyya, J.)**

**(Moushumi Bhattacharya, J.)**