

CRM (A) 5277 of 2022

In re : An Application for Anticipatory Bail under Section 438 of the Code of Criminal Procedure in connection with Nandigram Police Station Case No. 1453 of 2022 dated 11.11.2022 under Sections 341/323/326/307/435/427/504/506/120B of the Indian Penal read with Section 25/27 of the Arms Act and 3/4 of the Explosive Substances Act.

-And-

In the matter of : **Debasis Das & Ors.**

... .. Petitioners

Mr. Rajdeep Mazumder, Advocate
Mr. Pritam Roy, Advocate

... .. For the Petitioners

Mr. Saswata Gopal Mukherjee, ld. PP
Mr. Rudradipta Nandy, ld. APP
Ms. Sonali Das, Advocate

... ...For the State

Three petitioners are before the Court seeking anticipatory bail.

Learned Advocate appearing for the petitioners submits that the petitioners were falsely implicated by reason of the subscription of the petitioners to a particular political ideology and in view of the fact that they are in the opposition presently in the State of West Bengal. He submits that the petition contains a pendrive showing that the media at the relevant point of time carried video footage of the incident and that, persons on camera claimed that the incident was the hand-in-work of personnel of the ruling party.

Learned Public Prosecutor opposes the prayer for anticipatory bail vehemently. He submits that, the investigations are at a nascent stage. He refers to the statements of eye witnesses recorded under Section 161 of the Code of Criminal Procedure. He submits that, fire was put on a stage where a meeting was held. The stage was set ablaze at about 3 a.m. in the morning when the people were sleeping in the stage. The incident could have led to the loss of life.

Learned Public Prosecutor submits that none of these persons can be said to be of any political party. Mere claim that they were election agents of any candidate will not make them a political personality. Since the investigations are at a very nascent stage, it would be appropriate that the petitioners be directed to stay away from the jurisdiction of the Police Station where the complaint was lodged at least for a period of a fortnight in order to enable the police to progress with the investigations.

The police complaint relates to an incident happening on the intervening night of November 10, 2022 and November 11, 2022. Apparently, the police permitted a political rally to be held on November 10, 2022 at particular place between 10 a.m. to 2 p.m. during the day time for the ruling party and between 3 p.m. to 6 p.m. for the opposition party.

The allegations against the petitioners are that, subsequent to the holding of the rally by the opposition party they amassed a mob and, thereafter, went on a rampant. Section 161 statement which the learned Public Prosecutor draws the attention of the Court two claims that crude bombs and fire arms were used.

On a query from the Court, learned Public Prosecutor submits that, police are yet to seize any firm arms or any remenants of any crude bomb used at the time of the incident.

There is statement under Section 161 of the Code of Criminal Procedure which states that, one person suffered an injury at the forehead caused by bamboo stick.

The injury report of the victim does not suggest that the victim suffered grievous hurt.

Mischief enumerated under Section 435 of the Indian Penal Code, 1860 isailable.

At this stage, the case diary does not suggest a case being made out under Section 307 of the Indian Penal Code, 1860.

The statement recorded under Section 161 of the Code of Criminal Procedure which the learned Public Prosecutor referred to, speaks of the petitioners being involved with a political party. Therefore, restraining the petitioners from entering into the

jurisdiction of the local Police Station, in the facts of the present case, is not warranted.

In such circumstances, we are inclined to grant anticipatory bail to the petitioners.

Accordingly, we direct that in the event of arrest the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand Only) each, with two sureties of like amount each, to the satisfaction of the arresting officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on condition that the petitioners will report to the Investigating Officer once in a week till the conclusion of the investigation and on further condition that the petitioners shall appear on every date before the jurisdictional Court on and from the date fixed for appearance of the accused and in default the jurisdictional Court will pass appropriate order to secure the presence of the petitioners in Court including cancelling the anticipatory bail granted without further reference to this Court.

Prayer for anticipatory bail of the petitioners is allowed.

Petitioners will make over the contents of the pendrive which the petitioners relied upon in this application, to the Investigating Officer forthwith.

CRM (A) 5277 of 2022 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)