

06.12.2022

Sl.36

Court No.29

(AD)

(Rejected)

C.R.M. (A) 5681 of 2022

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Daulatabad** Police Station Case No.**169 of 2021** dated **12/10/2021** under Sections **302/120B/34** of the Indian Penal Code, 1860 and **25 and 27** of the Arms Act.

And

In the matter of: **Nurul Hossain @ Julfikar Sk**

....petitioner.

Mr. Kallol Mondal
Mr. Amanul Islam
Mr. Krishan Ray

... for the petitioner.

Mr. Ranabir Roy Chowdhury
Mr. Sandip Chakraborty

... for the State.

Petitioner prays for anticipatory bail.

Learned Advocate appearing for the petitioner submits that five other co-accuseds were standing on the same footing as that of the petitioner was granted anticipatory bail by the Hon'ble Supreme Court subsequent to them filing a Special Leave Petition directing against the order of rejection passed by the High Court.

Learned Advocate appearing for the State submits that there are eye-witnesses to the incident and such eye-witnesses recorded statements under Section 164 of the Code of Criminal Procedure. Both the eye-witnesses ascribed specific role so far as the present petitioner is concerned in using the firearms to shoot and murder the victim.

The statement recorded under Section 164 of the Code of Criminal Procedure does not ascribe specific roles to the other persons who were enlarged on anticipatory bail by the Hon'ble

Supreme Court.

We perused the statement of Sajirul Islam recorded under Section 164 of the Code of Criminal Procedure. He names the petitioner as one of the assailants who used the firearms to commit the murder. He did not ascribe any specific role of any co-accuseds who were granted anticipatory bail by the Hon'ble Supreme Court. The other eye-witness, namely, Ruhab Sk, stated in the statement under Section 164 that the petitioner used the firearms to shoot and murder the victim.

The materials in the case diary suggest that the petitioner is one of the persons who shot the firearm on the victim.

In such circumstances, we are unable to arrive at a finding that the petitioner stands on the same footing as that of the five persons who were enlarged on anticipatory bail by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No(s). 4417/2022.

Consequently, we are unable to grant anticipatory bail to the petitioner.

Accordingly, the prayer for anticipatory bail of the petitioner is rejected.

C.R.M. (A) 5681 of 2022 is dismissed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)