

21.12.2022
Sl.10
Court No.29
(AD)
(Rejected)

C.R.M. (A) 5838 of 2022

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Thanarpara** Police Station Case No.**215 of 2022** dated **16.10.2022** under Sections **147/148/323/326/307/120B/506** of the Indian Penal Code and Sections **25/27** of Arms Act.

And

In the matter of: **Rahul Mandal @ Arislam & Ors.**

....petitioners.

Mr. Milon Mukherjee, Ld. Sr. Advocate
Mr. Rana Mukherjee
Mr. Atis Kumar Biswas

... for the petitioners.

Mr. Rudradipta Nandy, Ld. APP
Ms. Sonali Das
Mr. Subrata Roy

...for the State.

Petitioners pray for anticipatory bail.

Learned Advocate appearing for the petitioners submits that the petitioners were falsely implicated. He submits that a person suffered injury on September 29, 2022. Such person was implicated in a false case on September 30, 2022. The mother of such person approached the Writ Court alleging police over-action amongst others. Orders were passed by the Writ Court for affording a police protection. The first order is dated October 12, 2022. The last order was on December 5, 2022. The present police complaint was lodged on October 16, 2022 to falsely implicate the petitioners. He refers to the orders of the Writ Court passed on October 12, 2022 and December 5, 2022. He submits that the provisions of the Arms Act are not attracted since no arms was recovered.

Learned Advocate appearing for the State draws the attention of the Court to the materials in the case diary. He submits that, a victim suffered bullet shot injury. There are materials in the case diary implicating all the petitioners. In particular, he draws the

attention of the Court to the materials in the case diary which squarely implicates the first and the sixth petitioners. He submits that other petitioners were present at the spot and were involved in the incident.

The application for anticipatory bail was taken up on December 15, 2022. The attention of the Court was drawn to the fact on behalf of the petitioners that, there were CCTV footage of the incident leading to the present police case of October 16, 2022. Pursuant to such statement being made in open Court, request was made to the petitioners to make over the CCTV footage to the police and the Superintendent of Police was requested to submit a report after perusal of CCTV footage.

Pursuant to such desire of the Court, the report submitted by the Superintendent of Police in Court be taken on record.

Learned Senior Advocate appearing for the petitioners refers to such report and submits that the previous report of the police submitted before the Writ Court was prepared by the same officer. It would be preposterous to expect that such officer to return any other finding.

A report was submitted by the police before the Writ Court. Such report did not relate to the CCTV footage which was discussed in the present application for anticipatory bail.

There are materials in the case diary demonstrating that a person received gunshot injury. There are eye-witnesses recording statements under Section 161 of the Code of Criminal Procedure implicating all the petitioners in the incident.

In such circumstances, considering the gravity of the offence and the involvement of the petitioners therein, we are unable to

grant anticipatory bail to the petitioners.

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

C.R.M. (A) 5838 of 2022 is dismissed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)