

26.12.2022.  
03  
NB/AGM  
Ct. No.08

**CRM(A) 6094 of 2022**

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973.

In the matter of : Muchiram Halder @ Muchiram Haldar ... petitioner.

Mr. Soumajit Chatterjee.

...for the petitioner.

Mr. Swapan Banerjee,  
Ms. Manisha Sharma.

.....for the State.

This is a second application for anticipatory bail.

Learned counsel appearing on behalf of the petitioner submits as follows. Although the case was initially started under Sections 307, 326, added Section 302 read with Section 34 of the Penal Code and Sections 25 and 27 of the Arms Act, subsequently, a charge sheet was submitted only under Section 304 read with Section 34 of the Penal Code and Section 27 of the Arms Act. Therefore, there is change in circumstance as the alleged penal provisions were watered down in the charge sheet. It is a case where some persons were fiddling with a firearm. But, accidentally, a shot was fired and a person received injury and subsequently succumbed to the same. Another co-accused from whom

the weapon was seized was arrested and thereafter granted bail.

Learned counsel appearing on behalf of the State relies on the case diary and submits that the injured witness who passed away later had specifically named the petitioner.

Since a charge sheet was submitted on lesser charges and the anticipatory bail application was decided by this Court before submission of charge sheet, this is a fit case where a second application for anticipatory bail would lie.

However, considering the nature of allegations and the materials available in the case diary including the statement of the injured witness, who subsequently passed away, and the dying declaration given by him, we are not inclined to grant anticipatory bail to the petitioner.

Accordingly, the application for anticipatory bail being CRM (A) 6094 of 2022 is dismissed.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

**(Jay Sengupta, J.)**

**(Apurba Sinha Ray, J.)**

