

12.07.2023
Sl. 20+24
Court No. 29
Sourav
(Partly
Allowed)

C.R.M. (A) 2635 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Berhampore** Police Station Case No. **61** of **2023** dated **12.01.2023** under Sections **448/326/307/34** IPC.

And

In the matter of: **Rajbahar Sk & Anr.**

....petitioners.

With

C.R.M. (A) 2688 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Berhampore** Police Station Case No. **61** of **2023** dated **12.01.2023** under Sections **448/326/307/34** IPC.

And

In the matter of: **Bulai Sk**

....petitioner.

Mr. Somnath Adhikary

...for the petitioner
in both the applications.

Mr. Prasun Mukherjee
Mr. Mainak Gupta

... for the defacto complainant
in both the applications.

Mr. Tanmoy Kr. Ghosh
Mr. Arindam Sen

... for the State in
CRM 2635 of 2023.

Mr. Saswata Gopal Mukherji, Ld. PP
Mr. Partha Pratim Das
Mrs. Manasi Roy

...for the State in
CRM 2688 of 2023.

1. Heard learned Counsel for the parties.
2. As both the bail applications arise out of the same P.S. Case, they are taken up together for disposal with consent of learned Counsel appearing for the parties.
3. Altogether three victims are alleged to have sustained injury,

out of whom Samser Ali is alleged to have sustained fracture injury on his parieto occipital region being assaulted by sharp cutting weapons. From the statement of the aforesaid victim, it is found that Nafal Sk @ Nafol Sk (petitioner no. 2) in CRM (A) 2635 of 2023 had assaulted him with a sharp cutting weapon along with Bulai Sk, petitioner in CRM (A) 2688 of 2023. So far as Rajbahar Sk (petitioner no. 1) in CRM (A) 2635 of 2023 is concerned, he is alleged to have assaulted the victim by kicks and fists blows.

4. It is fairly submitted at the Bar that aforesaid Rajbahar Sk, petitioner no. 1 in CRM (A) 2635 of 2023 is similarly circumstanced with Asraf Sk. @ Foring sk. who has been released on anticipatory bail vide order dated 20.06.2023 passed in CRM (A) 2307 of 2023.
5. Regard being had to such facts and submissions and especially, the part played by aforesaid **Nafal Sk @ Nafol Sk** (petitioner no. 2) in CRM (A) 2635 of 2023 and **Bulai Sk**, petitioner in CRM (A) 2688 of 2023, we are not inclined to exercise our discretion in favour of them under Section 438 Cr.P.C. So far as Rajbahar Sk (petitioner no. 1) in CRM (A) 2635 of 2023 is concerned, regard being had to such facts and submissions, factum of permanent residence of the aforesaid petitioner no. 1, part played by him in the entire transaction and substantial progress in the investigation, it is directed that aforesaid **Rajbahar Sk** (petitioner no. 1) in CRM (A) 2635 of 2023 shall be released on bail by the Arresting Officer in the event of his arrest in the aforesaid P.S. case on

such terms and conditions as deemed just and proper in the facts and circumstances of the case including the condition that (i) he shall appear before the I.O. once in a week on the day and time fixed by the I.O. till submission of F.F.

6. The aforesaid petitioner no. 1 in CRM (A) 2635 of 2023 is directed to appear before the I.O. within 21 days from today along with a server copy or certified copy of this order.
7. Accordingly, the application being **CRM (A) 2635 of 2023** is allowed in-part and the application being **CRM (A) 2688 of 2023** is rejected.
8. The applications being **CRM (A) 2635 of 2023** is disposed of and **CRM (A) 2688 of 2023** is dismissed.
9. The I.O. is hereby directed to act upon the server copy of this order, if required.

(Chitta Ranjan Dash, J.)

(Apurba Sinha Ray, J.)

