

08.09.2023
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as
[Partly Allowed]

C. R. M. (A) 3622 of 2023

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Burwan Police Station Case No. 255 of 2023 dated 03.07.2023 under Sections 341/324/307/34 of the Indian Penal Code.

In Re: ***Mofiur Sk. @ Mofiur Alam & Ors.***

... ... Petitioners

Mr. Manas Kr. Das.

... ... for the petitioners

Ms. Faria Hossain,
Mr. Anand Keshari.

... ... for the State

Md. Hafiz Ali,
Ms. Shanta Sarkar.

...for the de-facto complainant.

1. Petitioners submit one Asgar Sk. @ Amir Sk. was murdered by the associates of the de-facto complainant. Criminal case was registered on 25.08.2023 against them. In retaliation the instant case has been registered. They pray for anticipatory bail.

2. Learned Advocate for the State opposes the prayer for anticipatory bail and produces the injury report.

3. We have considered the materials on record. Injury on the victim is grievous. Present incident occurred on 3rd July, 2023 and cannot be said to be a counter case to the case registered against the associates. On the contrary, earlier case may have given motive to commit the crime.

4. Statement of the injured victim implicates petitioner Nos.1 to 3 in the assault.

5. Accordingly, we are not inclined to grant anticipatory bail to petitioner Nos.1 to 3.

6. Keeping in mind the extent of complicity of petitioner Nos.4 and 5 who are not named by the injured victim, we are inclined to grant anticipatory bail to them.

7. Accordingly, we direct that in the event of arrest, the petitioners viz., 4) Tipu Sk and 5) Arif Ikbal Hosan 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 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and they shall appear before the court below and pray for regular bail within four weeks from date.

8. The application for anticipatory bail is, thus, disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)