

03.10.2023
D/L 76
Ct. No.29
(Allowed)
(SKB)

CRM (A) 4011 of 2023

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Chanchal P. S. Case No.1141 of 2023 dated 29.08.2023 under Sections 147/148/149/302/325/447/506/326/307 of the Indian Penal Code read with Sections 25(1)(a)/25(1B)/27 of the Arms Act (G.R. Case No.2791 of 2023).

In the matter of : Tafijul Hoque @ Tafijuddin
... Petitioner

Mr. Milon Mukherjee, Sr. Adv.,
Mr. Arindam Jana,
Mr. Soumajit Chatterjee
... for the petitioner

Ranabir Roy Chowdhury,
Mr. Sandip Chakraborty
... for the State

Mr. Pankaj Halder,
Mr. Neelabha Bera
... for the defacto complainant

1. Heard learned counsel for the parties.
2. The murder of the deceased has been committed by gunshot and specific overt act has been attributed to accused Sahajan and accused Khairul. So far as the present petitioner is concerned, there are statements of two eyewitnesses, one is Najimul Hoque and another is Abdul Hakim. FIR has been lodged by Najimul Hoque. Najimul Hoque in his statement recorded under Section 161 Cr.P.C., stated that in the said transaction, the present petitioner was assaulting the deceased by fist

blows. So far as the statement of the Abdul Hakim recorded under Section 161 Cr.P.C. is concerned, he has stated about the presence of the petitioner at the relevant time and date, but no specific overt act is attributed to the petitioner.

3. The charge being there under Section 149 IPC mere presence at the spot is also culpable according to law. But that is a matter to be deduced from the materials on record at the end of the trial. The entire occurrence had been happened in course of fight between two rival political parties.
4. Regard being had to such facts and submissions, factum of permanent residence of the petitioner, nature of allegation, role of the present petitioner in the entire transaction, though may be palpable, *prima facie*, by ahead of Section 149 IPC and substantial progress in investigation, it is directed that the petitioner shall be released on bail by the Arresting Officer in the event of his arrest in the G.R. Case No. 2791 of 2023 arising out of 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 conditions:
 - i) The petitioner shall not threaten, induce or coerce any witness of this case in any manner whatsoever during the currency of this order.

- ii) The petitioner shall not leave the jurisdiction of the P.S. without obtaining prior leave from the IO during investigation.
- 5. Accordingly, the prayer for the anticipatory bail is allowed.
- 6. Within 21 days from today petitioner is directed to appear before the I.O. along with a server copy or certified copy of this order.
- 7. The applications being CRM(A) 4011 of 2023 is disposed of.
- 8. The Arresting Officer is hereby directed to act upon the server copy or certified copy of this order.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)