

**13.12.2023**  
M/L SL. 51  
Court No. 29  
Aloke

**C.R.M. (A) 4628 of 2023**

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Hariharpara** Police Station Case No. **221** of **2015** dated **09.06.2015** under Sections **302/120B/34** of the Indian Penal Code and Sections **25/27** of the Arms Act (corresponding to G.R Case No. 2254 of 2015).

And

In the matter of: **Biman Mondal @ Sakil Rana Mondal & Anr.**  
....petitioners

Mr. S. Das Mahapatra  
Mr. Ali Ahasan Alamgir  
Ms. Soma Mal  
Ms. Rabia Khatoon  
Ms. June Modal

...for the petitioners

Mr. Madhusudan Sur, Id. APP  
Mr. Manoranjan Mahata

...for the State.

1. Heard learned Counsel for the parties.
2. In course of his argument learned Counsel for the petitioners draws our attention to the judgment dated 23.12.2020 as passed in ST No. 7(1) of 2017 by the learned Additional District & Sessions Judge, 4<sup>th</sup> Court, Berhampore, Murshidabad whereby and whereunder some of the co-accused persons have been acquitted by the said Trial Court. It is argued on behalf of the petitioner that since the said acquitted persons and the present petitioners have been charge-sheeted in connection with selfsame cause the said acquittal may be considered as a supervening circumstances for entertaining the instant application for anticipatory bail for the second time.

3. Mr. Madhusudan Sur, learned Additional Public Prosecutor for the State is present.
4. We are in respectful disagreement with the argument of learned counsel for the petitioners that the acquittal of the other co-accused persons can be considered as supervening circumstances in an application under Section 438 Cr.P.C. which has been filed for the second time, and while the petitioners are still at large.
5. The present petitioners being absconding accused cannot take advantage of the acquittal of the co-accused persons as for the petitioners only the process of the Court and Law has suffered a lot.
6. Regard being had to such facts and circumstances, the prayer for anticipatory bail is rejected.
7. The application being **CRM (A) 4628 of 2023** is dismissed.

**(Chitta Ranjan Dash, J.)**

**(Partha Sarathi Sen, J.)**

