

13.12.2023
SL. 58
Court No. 29
Aloke

C.R.M. (A) 4659 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Nowda** Police Station Case No. **173 of 2023** dated 25.05.2023 under Sections **325/326/302/34** IPC (corresponding to G.R. Case No. 2338 of 2023), pending before the Learned CJM, Murshidabad at Berhampore

And

In the matter of: **Tarif Rahaman Shaikh & Anr.**

....petitioners.

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

...for the petitioners.

Mr. Binay Panda
Mr. Subham Bhakat

... for the State.

Mr. Anisur Rahaman

... for the de facto complainant

1. Heard learned Counsel for the parties.
2. On perusal of the charge-sheet as submitted in connection with G.R. Case No. 2338 of 2023, we find that the petitioner no. 2, Taofikur Rahaman Shaikh has not been charge-sheeted. Such being the position the present application for anticipatory bail as filed on behalf of the petitioner no. 2, Taofikur Rahaman Sk. is not maintainable and the same is thus rejected.
3. On perusal of the entire materials as placed before this Court

we however find that the name of the present petitioner no. 1 Tarif Rahaman Shaikh is very much appearing from the statements of the witnesses as recorded under Section 164 of the Cr.P.C. who are also the injured of the alleged incident.

4. However, considering the fact that that investigation has been completed in the meantime and keeping in mind the 80% physical disability of the present petitioner no. 1, we are inclined to take a lenient approach in favour of the petitioner no. 1.
5. Regard being had to such facts and submissions, factum of permanent residence of the petitioners, nature of allegation, nature of evidence and completion of investigation, it is directed that the petitioner no. 1, Tarif Rahaman Shaikh shall surrender before the learned Chief Judicial Magistrate, Murshidabad at Berhampore, in G.R. Case No. 2338 of 2023 arising out of the aforesaid P.S. case within 15 days from today. On his appearance and application for bail, he shall be released on bail on such terms and conditions as deemed just and proper in the facts and circumstances of the case including the condition that petitioner shall appear before the learned Trial Court on each date of substantive hearing subject to provision of Section 317 Cr.P.C. with a further condition, the present petitioner shall not leave the territorial jurisdiction of the learned trial Court for a period of more than 7 days without obtaining prior permission of the learned trial Court during investigation.
6. Accordingly, the prayer for anticipatory bail is partly allowed.

7. The application being **CRM (A) 4659 of 2023** is disposed of.
8. Learned Chief Judicial Magistrate, Murshidabad, Berhampore, is hereby directed to act upon the server copy of this order, if required.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

