

03.01.2023
Serial no.5 & 6
Aloke

CRR 4762 of 2022
in
CRM (A) 5856 of 2022
with
CRM (A) 5694 of 2022

In re : An Application for Anticipatory Bail under Section 438 of the Code of Criminal Procedure in connection with Usthi Police Station Case No. 33 of 2022 dated 20.01.2022 under Sections 341/323/325/307/506/34 of the Indian Penal Code.

-And-

In the matter of : **Samim Uddin Molla & Ors.**

... .. Petitioners

Mr. Kanailal Mondal, Advocate

Mr. Pijush Kanti Ghoshal, Advocate

Mr. Rajat Kr. Dhar, Advocate

... .. For the Petitioners

Mr. Iqbal Kabir, Advocate

... ..For the State

Affidavit submitted in response to the Rule is taken on record.

In respect of Usthi P.S. Case No. 33 of 2022 dated January 20, 2022 an application for anticipatory bail was made by some of the accuseds by way of CRM (A) 5694 of 2022. Prayer for anticipatory bail was allowed on the ground that the injury report of the victim did not suggest that the victim suffered grievous hurt.

Subsequently, CRM (A) 5856 of 2022 was filed by other co-accused in respect of the same police case. There it was pointed out on behalf of the State that, in fact, one of the injured suffered grievous hurt. Such injured suffered a fracture of nasal bone.

Learned Advocate appearing for the accuseds in both the applications for anticipatory bail submits that, there was a counter case in respect of the incident. All the accused in the counter case were granted bail by the jurisdictional Court. The

date of the FIR is January 20, 2022 while the medical report that the State seeks to rely upon is dated March 3, 2022.

Learned Advocate appearing for the State draws the attention of the Court to the materials in the case diary. He submits that, the certificate of the doctor is dated March 3, 2022 which speaks of the date of assault being January 20, 2022. He submits that the victim was discharged on January 28, 2022. The medical certificate depict that the victim suffered fracture in the nasal bone.

Learned Advocate appearing for the State refers to another injury report. He submits that the second victim was referred to S.S.K.M. Hospital due to the nature of injury suffered.

There are two injured as appearing from the materials in the case diary. One injured suffered a fracture on the nasal bone. The nature of injury can be classified under Section 325 of the Indian Penal Code. The second injury report suggest that the injured suffered physical assault and was hit by wooden stick over the head region and back region. The injury report does not classify the injury as a grievous hurt.

Apparently, there was a free fight between the parties. There is a counter police complaint also.

There is an error apparent on the face of the record so far as the order dated December 8, 2022 is concerned. It was erroneously recorded that the injury report did not suggest that the victim suffered grievous hurt.

Be that as it may, considering the gravity of the offence and the involvement of the petitioners therein in the two application before us are concerned, we are inclined to grant anticipatory bail to the petitioners in CRM (A) 5856 of 2022.

We discharge the Rule issued in respect of CRM (A) 5694 of 2022.

In such circumstances, we are inclined to grant anticipatory bail to the petitioners in CRM (A) 5856 of 2022.

Accordingly, we direct that in the event of arrest the petitioners shall 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 be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioners shall appear on every date before the jurisdictional Court on and from the date fixed for appearance of the accused and in default the jurisdictional Court will pass appropriate order to secure the presence of the petitioners in Court including cancelling the anticipatory bail granted without further reference to this Court.

Prayer for anticipatory bail of the petitioners is allowed.

CRM (A) 5856 of 2022 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)