

09.01.2023
Sl.4
Court No.29
(AD)

C.R.M. (A) 6099 of 2022

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Gangarampur** Police Station Case No.**211 of 2019** dated **08.06.2019** under Sections

143/147/148/149/186/188/332/353/325/326/307 of the Indian Penal Code, under Section **3** of the Prevention of Damage to Public Property Act, under Section **8B** of the National Highways Act read with Section **9** of the West Bengal Maintenance of Public Order Act.

And

In the matter of: **Mafuja Khatun & Ors.**

....petitioners.

Mr. Sourav Chatterjee
Mr. Soumya Nag
Mr. Aditya Tiwari

...for the petitioners.

Mr. Swapan Banerjee
Mr. Suman De
Ms. Purnima Ghosh

... for the State.

The application for anticipatory bail is taken up for consideration subsequent to the order dated January 4, 2023.

Learned Advocate appearing for the petitioners submits that subsequent to the order dated January 4, 2023, the police initiated a process for declaring the petitioners as proclaimed offenders. He submits that such steps were taken trying to overreach the Court. On January 4, 2023, the application for anticipatory bail could not be taken up for consideration in view of non-production of the case diary in terms of the order of the Coordinate Bench.

Learned Advocate appearing for the petitioners submits that the petitioners stand on the same footing as that of the Ashoke Barddhan @ Ashok Bardhan who was granted relief by the Hon'ble Supreme Court by the order dated August 22, 2022 passed in Criminal Appeal No.1301 of 2022 arising out of SLP (Crl.) No.5018 of 2021. He submits that similar facilities may be extended to the

present petitioners.

Learned Advocate appearing for the State draws the attention of the Court to the materials in the case diary. He refers to the injury reports of one of the injured persons. He submits that, such persons suffered a injury which was classified as “apparently grievous”. Therefore, he submits that the petitioners do not stand on the same footing as that of Ashoke Barddhan @ Ashok Bardhan. He opposes the prayer for grant of anticipatory bail.

This is the third application for anticipatory bail at the instance of the petitioners.

The first application for anticipatory bail was rejected by the order dated December 24, 2019 passed in CRM 12135 of 2019. Renewal prayer of the petitioners was rejected on March 22, 2022 passed in CRM(A) 1338 of 2022. Thereafter, the present application was filed.

The present application was taken up for consideration by the Vacation Bench on December 26, 2022 when a finding as to maintainability of the petition was returned in favour of the petitioners.

However, since the original case diary was not produced before the Coordinate Bench, the matter was directed to appear before the Regular Bench.

Another co-accused, namely, Ashoke Barddhan @ Ashok Bardhan, approached this Hon’ble Court for grant of anticipatory bail which was rejected on June 10, 2021 passed in CRM 1584 of 2021.

The Hon’ble Supreme Court disposed of the Special Leave Petition against such order on August 22, 2022 by directing Ashoke

Barddhan @ Ashok Bardhan to apply for regular bail before the trial court which would examine the application for bail keeping in mind the orders of the Hon'ble Supreme Court reported in (2022) 1 SCC 676 and 2021 SCC Online SC 941.

Apparently, the petitioners stand on the same footing as that of the Ashoke Barddhan @ Ashok Bardhan whose criminal appeal was disposed of by the order dated August 22, 2022 passed by the Hon'ble Supreme Court requiring the Ashoke Barddhan @ Ashok Bardhan to apply for regular bail before the trial court.

In such circumstances, the application for anticipatory bail of the petitioners is disposed of by allowing the petitioners to apply for regular bail before the trial court.

Interim order stands vacated.

C.R.M. (A) 6099 of 2022 is disposed of accordingly.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)