

06.02.2024
Item No.16
Ct. No. 29
CHC
Partly Allowed

C.R.M.(A) 376 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Islampur** Police Station Case No. **267** of **2022** dated **13.04.2022** under Sections **143/448/307/427** of the Indian Penal Code read with Sections **25/27/35** of Arms Act and Sections **3/ 4** E.S. Act.
And

In the matter of : Astar & Md. Astr Husen & ors.

..... petitioners

Mr. Amit Roy

....for the petitioners

Mr. Bidyut Kumar Ray,

Mr. Antarikhya Basu

....for the State

Petitioners pray for anticipatory bail on the ground of parity with other co-accused who were granted anticipatory bail by the order dated December 1, 2023 passed in CRM(A) 5067 of 2023 by the coordinate Bench.

The other co-accused were also enlarged on anticipatory bail.

Learned advocate appearing for the State submits that, the first petitioner was seen by eyewitnesses to fire shot from the firearm. Cartridges were recovered from the place of occurrence.

In such circumstances he submits that, first petitioner is not standing on the same footing as that of the other co-

accused who were on anticipatory bail by the coordinate Benches.

We perused the materials in the Case Diary. Eyewitnesses claimed that they saw the first petitioner to fire the firearm. Seizure list demonstrates seizure of cartridges from the place of occurrence.

In such conspectus, petitioner no.1 cannot be said to be standing on the same footing as that of other co-accused who were enlarged on anticipatory bail by the coordinate Benches.

Consequently, we are unable to grant anticipatory bail to the petitioner no.1, namely, Astar & Md. Astr Husen.

So far as other petitioners namely petitioner no.2, namely, Jamil @ Jemil Aktar, petitioner no.3, namely, Rehan @ Rehan Alam, petitioner no.4, namely, Md. Badrul and petitioner no.5, namely, Amatu @ Serajul Haque are concerned, claim for parity is not being opposed on behalf of the State.

Police filed charge-sheet.

Consequently, we grant such petitioners anticipatory bail.

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 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.

This application for anticipatory bail in respect of petitioner no.2, namely, Jamil @ Jemil Aktar, petitioner no.3, namely, Rehan @ Rehan Alam, petitioner no.4, namely, Md. Badrul and petitioner no.5, namely, Amatu @ Serajul Haque is, thus, allowed.

CRM(A) 376 of 2024 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)