

03.01.2024
Item No.11
Ct. No. 29
CHC
Rejected

C.R.M.(A) 4258 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Harishchandrapur** Police Station Case No. **671** of **2023** dated **09.07.2023** under Sections **341/325/326/307/354 and 34** of the Indian Penal Code, 1860.

And

In the matter of : Peshkar Ali & anr.

..... petitioners

Mr. Soupal Chatterjee,
Ms. Sucheta Banerjee
....for the petitioners

Mr. S. S. Imam,
Mr. Sandip Kundu
....for the State

Petition is taken up for consideration subsequent to the order dated October 16, 2023 passed by the co-ordinate Bench.

By such order, the coordinate Bench granted interim anticipatory bail to the petitioners.

It is submitted at the bar that, such order was passed without consulting the materials in the Case Diary and in view of the ensuing Puja Vacation.

Learned advocate appearing for the petitioners submits that, petitioners were falsely implicated due to political rivalry. There are counter police complaint also. He submits that at least 18 co-accused were enlarged on anticipatory bail by the jurisdictional Court.

Learned advocate appearing for the State draws the attention of the Court to the materials in the Case Diary.

We perused the Case Diary.

Injured suffered the cut injuries on the head. The injuries were classified as dangerous.

The injured in a statement recorded under Section 161 of the Criminal Procedure Code names both the petitioners as the assailants. He narrates that, the petitioner no.1 assaulted him with bricks and that, the petitioner no.2 was carrying a sharp cutting weapon. He was assaulted by the petitioner no.2 as well. He names other persons in the statement recorded under Section 161 of the Criminal Procedure Code. However, he does not ascribe specific role to those other persons. Specific roles are ascribed to the petitioner before us.

In such circumstances, we are unable to subscribe to the view that petitioners before us stands on the same footing as that of other co-accused who were enlarged on anticipatory bail by the jurisdictional Court.

In such circumstances, we are unable to extend the interim order granted on October 16, 2023 or grant anticipatory bail to the petitioners.

This application for anticipatory bail is, thus, rejected.

CRM(A) 4258 of 2023 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)