

02.01.2024

68

Ct. No. 29

S.D.

Allowed

C.R.M.(A) 4300 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Nandakumar** Police Station Case No. **289** of **2022** dated **24.7.2022** under Sections 341/323/325/307/506/34 of the Indian Penal Code.

And

In Re : Sk. Ruhul @ Sk. Ruhul Amin @ Sk. Rahul Amin
..... petitioner

Mr. Mazahar Hossain Chowdhury
....for the petitioner

Mr. S.S. Imam
Mr. R. Jana
....for the State

The application for anticipatory bail is taken up for consideration subsequent to the order dated October 16, 2023.

By such order, the Coordinate Bench granted interim anticipatory bail to the petitioner.

It is submitted at the bar that such order was passed without considering the materials in the case diary and in view of the ensuing puja vacation.

Learned advocate appearing for the petitioner submits that co-accused was enlarged on anticipatory bail.

Learned advocate appearing for the State submits that, the petitioner does not stand on the same footing as that of such co-accused. The petitioner is the principal assailant.

We perused the materials in the case diary.

The petitioner is involved in an incident of assault resulting in the injured suffering fracture of nasal bone and loss of four teeth.

Apparently, the injury inflicted was by fist and blows.

Whether the provisions of Section 307 of the Indian Penal Code, 1860 will be attracted is debatable in such circumstances.

Co-accused was enlarged on anticipatory bail by an order dated June 19, 2023 passed in CRM (A) 2278 of 2023.

Police filed charge sheet.

In such circumstances, we confirm the interim order of anticipatory bail passed on October 16, 2023.

Accordingly, we direct that in the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/-, 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 petitioner 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 is, thus, allowed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)