

02.01.2024
Sl.79
Court No.29
(AD)
(Partly
Allowed)

C.R.M. (A) 4324 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Palashipara** Police Station Case No.**253 of 2023** dated **14.08.2023** under Sections **341/326/307/34** of the Indian Penal Code, 1860 and **25/27** of Arms Act, in S.L. No. 1346 of 2023.

And

In the matter of: **Golam Mostafa Mallick @ Golam Mostafa @ Kalu & Ors.**

....petitioners.

Ms. Minoti Gomes
Mr. Amanul Islam
Mr. Sourav Mukherjee
Ms. Dona Sanyal

... for the petitioners.

Mr. Saibal Bapuli, Ld. APP
Ms. Sayanti Santra

...for the State.

Mr. Priyankar Ganguly
Ms. Neelanjana Ghorai
Ms. Sarmistha Basak

... for the de facto complainant.

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 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.

We perused the materials in the case diary.

Petitioner nos.3 before us was arrested. Therefore, the petition is infructuous so far as the petitioner no.3, namely, Samad Mallick @ Abdus Samad Mallick, is concerned.

The victim suffered gunshot injury. He recorded his statement under Section 161 of the Code of Criminal Procedure where he states that the petitioner no.1 fired the bullet at him. By reason of which, he suffered the bullet injury.

Victim does not ascribe any specific role to the petitioner no.2 in the incident of assault.

In such circumstances, we confirm the interim order dated October 16, 2023 so far as the petitioner no.2, namely, Ashu Mallick @ Arshadul Hoque Mallick, is concerned and vacate the same so far as the petitioner no.1, namely, Golam Mostafa Mallick @ Golam Mostafa @ Kalu, is concerned.

Accordingly, we direct that in the event of arrest, the petitioner no.2 shall be released on bail upon furnishing a Bond of Rs.10,000/- (Rupees Ten Thousand Only), with two sureties of like amount each, to the satisfaction of the Arresting Officer and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on condition that the petitioner no.2 will report before the Investigating Officer once a fortnight till the conclusion of the investigation and on condition that the petitioner no.2 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 petitioner no.2 in Court including cancelling the anticipatory bail granted without further reference to this Court.

Accordingly, the prayer for anticipatory bail of the petitioner no.2 is allowed.

C.R.M. (A) 4324 of 2023 is, thus, disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)