

04.01.2024

04
Ct. No. 29
S.D.
Allowed

C.R.M.(A) 4331 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Domkal** Police Station Case No. **614** of **2023** dated **6.9.2023** under Section 25(I-B)(a)/35 of the Arms Act.

And

Abdul Hakim Mondal @ Liton

..... petitioner

Mr. Robiul Islam

Mr. Raju Mondal

Mr. Masooq Rahaman

....for the petitioner

Mr. Swapan Banerjee

Ms. Purnima Ghosh

....for the State

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

By such order dated October 16, 2023, the petitioner was enlarged on an interim anticipatory bail.

It is submitted at the bar that, the order granting interim anticipatory bail was passed just prior to the ensuing puja vacation without considering the materials in the case diary.

Learned advocate appearing for the petitioner refers to an order dated December 7, 2023 passed in W.P.A. 22628 of 2023. He submits that, the petitioner was falsely implicated.

Learned advocate appearing for the State submits that, the person who was arrested with the firearm named the petitioner as his accomplice.

Moreover, the petitioner is the person who supplied the firearm.

We perused the materials in the case diary.

Apparently, the incident arose with regard to Gram Panchayat election of 2023. A writ petition was filed by the petitioner being W.P.A. 22628 of 2023 in which an order dated December 7, 2023 was passed.

In such order, the Writ Court observed that “a statement of a co-accused does not have any value in the eye of law”. The petitioner is sought to be implicated on the basis of the co-accused’s statement made while in custody.

Independent of such statement of the co-accused, there are hardly any materials in the case diary implicating the petitioner.

The petitioner was granted interim anticipatory bail by the order dated October 16, 2023.

The person who was arrested was enlarged bail by the Jurisdictional Court.

In such circumstances, we confirm the interim order dated 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 further condition that the petitioner shall meet the Investigating Officer once a month till the conclusion of the investigation 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.)