

27.09.2024
SL No.19
Court No.29
(gc)
(Allowed)

CRM (A) 3462 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Criminal Procedure Code, 1973 read with Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with Khargram Police Station Case No.231 of 2023 dated 08.07.2023 under Sections 364/302 of the Indian Penal Code.

And

In the matter of : **Prokash Rajbanshi & Anr.**

- Petitioners.

Mr. Milon Mukherjee, Sr. Adv.,
Mr. Manas Kumar Das,
Mr. Aritra Kumar Thokdar
....For the Petitioners.

Mr. Arnab Chatterjee,
Mr. Santanu Talukdar
... For the State.

Md. Jannat ul Firdous
....For the De facto Complainant

1. Mr. Milon Mukherjee, learned Senior Counsel appearing on behalf of the petitioners submits that the petitioners were not named in the original charge-sheet. However, on a further investigation, a supplementary charge-sheet has been filed in which their names have been included. It is submitted that the petitioners are innocent and they have been falsely implicated.
2. The learned Counsel for the de facto complainant and the State have opposed the prayer for anticipatory bail.
3. The learned Counsel for the State has submitted that during further investigation by the C.I.D. in terms of the order passed by the learned Single Judge in a writ petition, out of several witnesses whose statements have been recorded, one fresh witness has named the petitioners.

4. Considering the materials available in the case diary, the nature and extent of complicity of the petitioners in the commission of the alleged offence and having considered the statements made by two independent witnesses under Section 164 Cr.P.C. which was recorded almost one year after the incident and having regard to the nature of the statements made by the said independent witnesses, and on consideration that one independent witness has not named the present petitioners while the statement of the other independent witness would show that there was only a threat with no active participation and also having regard to the fact that the charge-sheet has already been filed, we are of the view that custodial interrogation of the petitioners is not necessary.
5. Accordingly, we direct that in the event of arrest, the petitioners namely, **Prokash Rajbanshi** and **Md. Omor Farook @ Omar Fahruk**, shall be released on bail upon furnishing a bond of Rs.10,000/- each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer and also subject to the conditions as laid down under Section 438(2) of the Cr.P.C., 1973 corresponding to Section 482(2) of the BNSS, 2023.
6. It is also directed that the petitioners shall appear before the learned Additional Sessions Judge, Kandi, Murshidabad in connection with G.R. Case No.1759 of 2023 within 10 days from date.
7. It is further directed that the petitioners shall appear on each and every date of hearing before the trial Court on and from the date fixed for appearance of the accused and in default, the trial 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.

8. It is further directed that the petitioners shall not leave the jurisdiction of District Murshidabad without the express leave of the learned Additional Sessions Judge, Kandi, Murshidabad.

9. Accordingly, the application for anticipatory bail is disposed of.

10. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Soumen Sen, J.)

(Uday Kumar, J.)