

04.01.2024
Serial no. 69
[Partly Allowed]
with
Serial no. 121
[Allowed]
Dd

CRM (A) 4486 of 2023

*In re : An Application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure in connection with **Tehatta** Police Station Case No. **529** of **2023** dated **05.07.2023** under Sections **147/ 148/ 149/ 341/ 186/ 353/ 332/ 333/ 325/326/307/427/506/120B** of the Indian Penal Code, 1860 and 3 PDPP Act, adding Section **212 of IPC and 9 MPO Act.***

-And-

In the matter of : **Samad Sk @ Samad Shaikh & Ors.**
... .. **Petitioners**

with

CRM (A) 4570 of 2023

In the matter of : **Solemon Sekh @ Saleman Sk. & Ors.**
... .. **Petitioners**

*Ms. Minoti Gomes,
Mr. Amanul Islam,
Mr. Sourav Mukherjee,
Ms. Dona Sanya,, Advocates
... .. For the Petitioners*

*Mr. Swapan Banerjee,
Ms. Sujata Das,
Ms. Purnima Ghosh , Advocates
... ..For the State in CRM (A) 4486 of 2023*

*Mr. Rudradipta Nandy, APP
Mr. Subrata Roy,
... ..For the State in CRM (A) 4570 of 2023*

Two petitions for anticipatory bail are taken up analogously as they emanate out of the same police case.

Petition is taken up for consideration subsequent to order dated October 16, 2023.

By such order, interim anticipatory bail was granted by the co-ordinate Bench.

It is submitted at the Bar that the co-ordinate Bench did not consider the materials in the case diary and passed such order in view of the ensuing Puja vacation.

We perused the materials in the case diary.

Learned advocate appearing for the State submits that, Inspector-in-Charge of the Police Station along with other police personnel suffered injuries with the Inspector-in-Charge suffering grievous hurt. He refers to the statements of the Inspector-in-Charge recorded under Section 161 of the Criminal Procedure Code and two other statements recorded under Section 164 of the Criminal Procedure Code.

Three statements taken together implicate the petitioner nos. 1 (Samad Sk @ Samad Shaikh); 2 (Anarul Sk @ Sekh @ Shaikh); 3 (Monirul @ Minarul Sk @ Shaikh), 6 (Samrat Sk @ Shaikh) and 7 (Samim Shaikh @ Sekh) in *CRM (A) 4486 of 2023 in assaulting police personnel and inflicting injuries on them*.

Considering their role in the incident, we are unable to extend the interim order dated October 16, 2023 or grant anticipatory bail to any of them.

Prayer for anticipatory bail for such petitioners stands **rejected**.

However, so far as petitioner nos. 4 (Afride Sk @ Shaikh); 5 (Rajesh Sk @ Rajash @ Shaikh) and 8 (Sabir Shaikh @ Sekh) in CRM (A) 4486 of 2023 and all the petitioners, i.e., Petitioner nos. 1 (Solemon Sekh @ Saleman Sk.); 2 (Sagar Sekh @ Sagar Shaikh) and 3 (Sahajuddin Sekh @ Sahajaddin Mondal) in CRM (A) 4570 of 2023 are concerned, since no specific role stands assigned to them, we deem it appropriate to grant anticipatory bail to such petitioners.

Prayer for anticipatory bail for such petitioners stands **allowed**.

Accordingly, we direct that in the event of arrest the petitioner nos. 4 (Afride Sk @ Shaikh); 5 (Rajesh Sk @ Rajash @ Shaikh) and 8 (Sabir Shaikh @ Sekh) in CRM (A) 4486 of 2023 and all the petitioners in CRM (A) 4570 of 2023, i.e., Petitioner nos. 1 (Solemon Sekh @ Saleman Sk.); 2 (Sagar Sekh @ Sagar Shaikh) and 3 (Sahajuddin Sekh @ Sahajaddin Mondal) shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand Only) each, 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 petitioners shall report before the Investigating Officer once in a fortnight till the conclusion of the investigation and on further condition that the such petitioners 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 such petitioners in Court including cancelling the anticipatory bail granted without further reference to this Court.

Prayer for anticipatory bail of the petitioner nos. 4 (Afride Sk @ Shaikh); 5 (Rajesh Sk @ Rajash @ Shaikh) and 8 (Sabir Shaikh @ Sekh) in CRM (A) 4486 of 2023 and all the petitioners in CRM (A) 4570 of 2023, i.e., Petitioner nos. 1 (Solemon Sekh @ Saleman Sk.); 2 (Sagar Sekh @ Sagar Shaikh) and 3 (Sahajuddin Sekh @ Sahajaddin Mondal) are **allowed**.

Prayer for anticipatory bail of the petitioner nos. 1 (Samad Sk @ Samad Shaikh); 2 (Anarul Sk @ Sekh @ Shaikh); 3 (Monirul @ Minarul Sk @ Shaikh), 6 (Samrat Sk @ Shaikh) and 7 (Samim Shaikh @ Sekh) in CRM (A) 4486 of 2023 are **rejected**.

CRM (A) 4486 of 2023 and CRM (A) 4570 of 2023 are
disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)