

09.01.2024

Serial no. 193
Anticipatory Bail
[**Partly Allowed**]
Dd

CRM (A) 4665 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 Section **3** PDPP Act, adding Section **212** IPC and **9** MPO Act.*

-And-

In the matter of : **Khurshid Alam Sk @ Khurshed Sk & Ors.**
... .. **Petitioners**

*Ms. Minoti Gomes,
Mr. Amanul Islam,
Mr. Sourav Mukherjee,
Ms. Roma Roy, Advocate
... .. For the Petitioners*

*Mr. Saibal Bapuli, APP
Ms. Sayanti Santra, Advocates
... ..For the State*

Petition is taken up for consideration subsequent to order dated October 17, 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 petitioners submits that some co-accuseds were granted anticipatory bail by an order dated January 4, 2024 passed in CRM (A) 4486 of 2023. He claims parity.

Learned advocate appearing for the State submits that, excepting petitioner nos. 9, 10, 11, 13 and 22, all others are named either in the statements recorded either under Section 161 or 164 of the Criminal Procedure Code.

We perused the order dated January 4, 2024 passed in CRM (A) 4486 of 2023. We did not grant anticipatory bail to the persons who were named either in the statements recorded under Sections 161 or 164 of the Criminal Procedure Code, considering gravity of the offence and their involvement therein.

Applying the ratio of parity to the facts of the present case, we find that, excepting petitioner no. 9 (Siraj Mahalder); petitioner no. 10 (Mahattar Sk @ Sekh); petitioner no. 11 (Sahanaj Sekh @ Sanuarj Sk); petitioner no.13 (Bosir Molla @ Basir Molla) and petitioner no. 22 (Mostakin Mondal @ Mustakin), all others are named either in the statements recorded either under Section 161 or 164 of the Criminal Procedure Code.

Consequently, we are unable to confirm the interim order granted on October 17, 2023 or grant anticipatory bail to the petitioner no. 1 (Khurshid Alam Sk @ Khurshed Sk); petitioner no. 2 (Asdul Molla @ Asadul @ Asarul Molla); petitioner no. 3 (Mahajan Shaikh @ Mohajan Sekh); petitioner no.4 (Nasir Sk @ Nasir Sekh @ Shaikh); petitioner no. 5 (Mokkar Sk @ Mokkar Sekh @ Shaikh); petitioner no. 6 (Janop Ali Sk @ Janap Sekh)); petitioner no. 7 (Ilias Shaikh @ Eliyas Sekh) and petitioner no. 8 (Majit Mondal @ Mojid Sekh); petitioner no. 12. (Asad Sk @ Sekh @ Ashadul Sekh), petitioner no. 14 (Swapan Sk @ Shaikh, petitioner no. 15 (Abbas Sk @ Shaikh @ Sekh @ Abbas Ali Sk), petitioner no. 16 (Rajjak Sekh @ Shaikh @ Razzaque), petitioner no. 17 (Sarthak Mahalder @ Wasim Akram Mahalder), petitioner no. 18 (Dhulo Molla @ Minaruddin Molla); petitioner no. 19 (Mortej @ Mothej Mondal); petitioner no. 20 (Mijabul Sk @ Mijaul Sk); petitioner

no. 21 (Tablu Mahalder @ Abu Taleb Mahalder) and petitioner no. 23 (Nur Islam Sk @ Sekh).

We, however, confirm the interim order granted on October 17, 2023 and grant anticipatory bail to petitioner no. 9 (Siraj Mahalder); petitioner no. 10 (Mahattar Sk @ Sekh); petitioner no. 11 (Sahanaj Sekh @ Sanuarj Sk); petitioner no.13 (Bosir Molla @ Basir Molla) and petitioner no. 22 (Mostakin Mondal @ Mustakin).

Accordingly, we direct that in the event of arrest the petitioner no. 9 (Siraj Mahalder); petitioner no. 10 (Mahattar Sk @ Sekh); petitioner no. 11 (Sahanaj Sekh @ Sanuarj Sk); petitioner no.13 (Bosir Molla @ Basir Molla) and petitioner no. 22 (Mostakin Mondal @ Mustakin) 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 petitioner no. 9 (Siraj Mahalder); petitioner no. 10 (Mahattar Sk @ Sekh); petitioner no. 11 (Sahanaj Sekh @ Sanuarj Sk); petitioner no.13 (Bosir Molla @ Basir Molla) and petitioner no. 22 (Mostakin Mondal @ Mustakin) shall report before the Investigating Officer once in a month till the conclusion of the investigation and on further condition that the such 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 such petitioner in Court including cancelling the anticipatory bail granted without further reference to this Court.

Prayer for anticipatory bail of the petitioner no. 9 (Siraj Mahalder); petitioner no. 10 (Mahattar Sk @ Sekh); petitioner no. 11 (Sahanaj Sekh @ Sanuarj Sk); petitioner no.13 (Bosir

Molla @ Basir Molla) and petitioner no. 22 (Mostakin Mondal @ Mustakin) is **allowed**.

Prayer for anticipatory bail of the petitioner no. 1 (Khurshid Alam Sk @ Khurshed Sk); petitioner no. 2 (Asdul Molla @ Asadul @ Asarul Molla); petitioner no. 3 (Mahajan Shaikh @ Mohajan Sekh); petitioner no.4 (Nasir Sk @ Nasir Sekh @ Shaikh); petitioner no. 5 (Mokkar Sk @ Mokkar Sekh @ Shaikh); petitioner no. 6 (Janop Ali Sk @ Janap Sekh)); petitioner no. 7 (Ilias Shaikh @ Eliyas Sekh) and petitioner no. 8 (Majit Mondal @ Mojid Sekh); petitioner no. 12. (Asad Sk @ Sekh @ Ashadul Sekh), petitioner no. 14 (Swapan Sk @ Shaikh, petitioner no. 15 (Abbas Sk @ Shaikh @ Sekh @ Abbas Ali Sk), petitioner no. 16 (Rajjak Sekh @ Shaikh @ Razzaque), petitioner no. 17 (Sarhak Mahalder @ Wasim Akram Mahalder), petitioner no. 18 (Dhulo Molla @ Minaruddin Molla); petitioner no. 19 (Mortej @ Mothej Mondal); petitioner no. 20 (Mijabul Sk @ Mijaul Sk); petitioner no. 21 (Tablu Mahalder @ Abu Taleb Mahalder) and petitioner no. 23 (Nur Islam Sk @ Sekh) is **rejected**.

CRM (A) 4665 of 2023 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)