

26.11.2024
Sl. No. 12
Sourav/
Suvayan
[ALLOWED]

C. R. M. (A) 4092 of 2024

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure read with Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Kultali Police Station Case No. **385** of **2024** dated **02.06.2024** under Sections **341/325/307/427/188/332/333/353/34** of the Indian Penal Code read with Sections **25/27** of the Arms Act and Sections **3/5** of the Explosive Substances Act and Section **3** of the Prevention of Damage of Public Property Act.

In the matter of: **Sailen Gayen & Ors.**

... .. Petitioners.

Mr. Tarunjyoti Tewari
Ms. Kausiki Bose

... .. for the petitioners.

Mr. Joydeep Roy
Ms. Nandini Chatterjee

... .. for the State.

1. Petitioners submit that there was a fight between two political groups. Case and counter case were registered. Persons implicated in the counter case have been granted anticipatory bail. They pray for similar relief.
2. Learned advocate for the State submits that a number of persons were severely injured and hospitalized. Charge-sheet has been filed under Section 323 IPC in the other case.
3. We have considered the materials on record. On the day of election, there was a fight between two political groups. Petitioners belong to one group while the accused in the counter case belongs to the other group. It is unclear why FIR in the present case has been registered under graver

offences including the attempt to murder, while charge-sheet in the other case has been filed under Section 323 IPC only.

4. When the offences are committed in the course of a free fight between two groups, it is the duty of the Court to distil the materials on record and determine the specific role of each individual. Examining the statements of witnesses from that perspective, we note that the said statements are generic and non-specific with regard to the assault. The possibility of implicating members of a political group out of grudge cannot be ruled out.
5. Under such circumstances, we are inclined to grant anticipatory bail to the petitioners.
6. Accordingly, we direct that in the event of arrest, the petitioners be released on bail upon furnishing a bond of Rs.10,000/- each, with two sureties of like amount each, to the satisfaction of the Arresting Officer and also subject to the conditions as laid down under Section 482(2) of the BNSS and on further condition, petitioners while on bail shall report to the Officer-in-Charge of Kultali Police Station once in a week or until further order. They shall appear before the jurisdictional court and pray for regular bail within four weeks from date.
7. Accordingly, the prayer for anticipatory bail is allowed.
8. The application being **CRM (A) 4092 of 2024** is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

