

07.02.2024

DL.1

Court No.29

(AD)

(Allowed)

C.R.M. (A) 5580 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Mayureswar** Police Station Case No.**77 of 2023** dated **08.07.2023** under Sections **447/326/379/427/34** of the Indian Penal Code. (G.R. Case No.1032 of 2023).

And

In the matter of: **Sabir Sekh & Ors.**

....petitioners.

Mr. Sandip Mandal

...for the petitioners.

Mr. Arabinda Manna

... for the State.

The application for anticipatory bail was considered on February 5, 2024 and we dictated an order of rejection in open Court. While correcting the order, we found that there are two orders of the two Coordinate Benches granting anticipatory bail to some of the co-accuseds. Therefore, we placed the matter today in the list for consideration of the case diary in light of the observation made by the Coordinate Benches.

First order granting anticipatory bail by one Coordinate Bench is dated August 16, 2023 passed in CRM (A) 3467 of 2023. Paragraph 3 of such order is as follows:

“3. We have considered the materials on record. Seizure list show burnt papers. However, it is unclear as to who had burnt the ballot papers at the polling booth. Statements of witnesses do not show petitioner had assaulted the victim.”

The second Coordinate Bench, granted anticipatory bail to the other co-accuseds on the ground of parity not being disputed by the State on September 1, 2023 passed in CRM (A) 3613 of 2023.

Petitioners before us stand on the same footing as that of the

co-accused, Kanchan Ghosh, who was enlarged on anticipatory bail by the order dated August 16, 2023 by the Coordinate Bench.

In such circumstances, on the ground of parity, we grant anticipatory bail to the petitioners.

Accordingly, we direct that in the event of arrest, the petitioners 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 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on condition that the petitioner nos.1 and 3 will report before the Investigating Officer once a week till the conclusion of the investigation and petitioner no.2 will cooperate with the investigation till the conclusion of the investigation and on condition that the 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 petitioners in Court including cancelling the anticipatory bail granted without further reference to this Court.

Accordingly, the prayer for anticipatory bail of the petitioners is allowed.

C.R.M. (A) 5580 of 2023 is, thus, disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)