

22.05.2024
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Ct. No. 03
S.D.

C.R.M.(A) 5681 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Jamuria** Police Station Case No. **549 of 2022** dated **08.11.2022** under Sections **143/147/148/186/341/332/333/353/427/506/120B** of the Indian Penal Code and Section **3/4** of the Prevention of Damage of Public Property Act.

And

In Re : **Islam Sk @ Sk. Islam & Anr.**
..... petitioners

Mr. Pinak Kumar Mitra
Mr. Soumon Nanda
...for the petitioners

Mr. Rudradipta Nandy, Ld.A.P.P.,
Ms. Sanjana Saha
.... For the State

The present Jurisdictional Commissioner of Police and the then Commissioner of Police, Raiganj Range are present on virtual platform.

Reports as called for by the order dated May 9, 2024 filed in Court be taken on record.

We perused both the affidavits. We are not satisfied with the reasons sought to be advanced by both of them.

In this police case, subsequent to the first order rejecting the prayer for anticipatory bail, police filed charge sheet. The

charge sheet was against several co-accused. Out of such several co-accused, two sets approached the Coordinate Bench and obtained orders requiring them to surrender within the specified period of time. State did not take any suitable steps with regard to the order of the Coordinate Bench despite the first order of rejection of the prayer for anticipatory bail.

Thereafter the two petitioners whose prayer for anticipatory bail was rejected filed the present application renewing the prayer for grant of anticipatory bail.

During the pendency of such application, petitioner no. 1 was arrested.

We place on record that the police discriminated against similarly situated co-accused. Police proceeded to accept the orders of the Coordinate Bench so far as the similarly situated co-accused are concerned while meting out a different treatment so far as the two petitioners herein are concerned.

State never informed the Court to extend the same facilities to the present petitioners as that of the other two sets of co-accused who were granted facilities by the Coordinate Bench, when the present application was moved. It is only during the course of hearing that the State chose to alter its stand.

Petitioner no. 2, **Asma Bibi** will not be arrested by the police.

Petitioner no. 2 is at liberty to surrender before the Jurisdictional Court within four weeks from date and seek bail

whereupon the Jurisdictional Court will extend the same facility is extended to two sets of co-accused who surrendered and obtained bail.

C.R.M. (A) 5681 of 2023 is disposed of accordingly.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)