

Present: **Shri A.K. Singh**
Sessions Judge, Nadia.

Criminal Misc. Case No.2519 of 2022

Order No.03
27.09.2022

The application for anticipatory bail **U/s 438 Cr.P.C.** filed on behalf of petitioners, namely, **(1) Ranakumar Ghosh, (2) Prashanta Ghosh, (3) Shyamal Ghosh, (4) Swarajit Ghosh, (5) Nimai Haldar, (6) Shashti Charan Halder, (7) Subodh Ghosh @ Subodh Kumar Ghosh, (8) Gobinda Ghosh, (9) Dashurathi Ghosh @ Dasharathi Ghosh, (10) Babulal Ghosh, (11) Bijay Rajak @ Bijay Kumar Rajak and (12) Balai Biswas @ Balaram Biswas** who apprehend arrest in connection with **Tehatta P.S. Case No.686/2022** dated 15.08.2022 **under Sections 447/427/325/326/307/354/376/511/34 of the IPC read with sections 25/27 Arms Act** is taken up for hearing along with LCR and CD.

Heard Learned Advocate for the petitioners as well as Learned Public Prosecutor.

At the outset, Learned Advocates of both sides state that no similar bail application is preferred, pending or rejected before any Higher Court of law.

Learned Advocate for the petitioners at first submits that he will not press the anticipatory bail application in respect of petitioner no.5 Nimai Haldar, as he has already been arrested by police. **Accordingly, the anticipatory bail application in respect of petitioner no.5 Nimai Haldar is rejected, being not pressed.**

Learned Advocate for the petitioners, while moving the application under section 438 Cr.P.C., submits that the petitioners have been falsely implicated in this case having no nexus with the alleged offence. It is further submitted that principal accused is in custody and a civil suit is pending between them, as a result, this case has been filed falsely. It is also submitted that no such incident as alleged happened. So, Learned Advocate prays for bail on any terms and conditions.

On the other hand, Learned Public Prosecutor raises vehement objection against the prayer for anticipatory bail under Section 438 Cr.P.C. in view of the seriousness in allegations and ample materials in CD against the accused persons. He drew the attention of this Court to the various supporting materials available in the CD against the accused.

Considered the rival submissions.

Perused the materials on record and CD.

Perused section 164 Cr.P.C. statement of the victim lady and injury report of the injured.

Injury report shows that the injured was assaulted by the petitioners. Statement of the victim lady recorded before the Learned Judicial Magistrate under section 164 of the Cr.P.C., indicates that there is serious allegations. Investigation in this case is still continuing.

Having heard the submissions of both sides, having perused the materials on record, considering the nature and gravity of the offence as alleged, keeping in mind the extent of complicity of the petitioners as well as serious nature of allegations as made against the petitioners by the victim lady as stated in her statement recorded before the Learned Judicial Magistrate under section 164 of the Cr.P.C. as well as the statements of other witnesses recorded under section 161 Cr.P.C. against the petitioners and considering that the investigation is at the preliminary stage, I think that custodial interrogation of this petitioners is required for the purpose of investigation. So, I am not inclined to allow anticipatory bail under 438 Cr.P.C. to **other petitioners**. Hence, the prayer for bail under section 438 Cr.P.C. stands **rejected**.

CD and LCR be returned.

Criminal Misc. Case, is, thus, finally disposed of.

Dictated & Corrected by me

Sd/- A.K. Singh
Sessions Judge, Nadia

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