

C.R.M. 8381 of 2018

In Re: - An application for cancellation of bail.

And

In the matter of: - Mohidul Rahaman

....petitioner.

Mr. I. Dey

...for the petitioners.

Mr. Sourav Chatterjee,
Mr. S. Saha

...for the opposite party nos.2 to 15.

Mr. Saibal Bapuli,
Mr. B. Bhattacharya

...for the State.

It is submitted on behalf of the petitioner that the learned judge failed to consider the gravity of the offence and granted pre-arrest bail to opposite party nos. 2 to 15.

Learned counsel appearing on behalf of the opposite party nos.2 to 15 submits that the learned judge considered the facts and circumstances of the case and recorded reasons for grant of pre-arrest bail.

We have considered the materials on record including the injury reports of the victims which show fractures suffered by two of the victims, namely, Ido Bibi & Lucky Khatton. We are informed that the said victims are still recuperating. We note that the finding of the learned judge that the injuries on the victims are slight is perverse. We are not unmindful of the fact that parameters for cancellation of bail are different from grant of bail/anticipatory bail. However, in the light of the patent perversity in the impugned order with regard to the nature of injuries suffered by the victims and the gravity of the offence, we consider it imperative to interfere with the order of anticipatory bail granted to the opposite party nos.2 to 15 herein. However, as the allegation of assault has been levelled against a large number of accused persons, we have also examined the extent of their complicity in the alleged crime in the light of the materials on

record particularly the statement of eyewitnesses. We find predominant role of opposite party nos. 2 to 8 & 15 in causing grievous injuries on two of the victims, namely Ido Bibi & Lakhi Khatoon which does not justify grant of pre-arrest bail to them. However, in view of the extent of complicity of the women folk, that is opposite party no.9 to 14, in the alleged assault and the fact that the possibility of their false implication being wholly ruled out, we choose not to interfere with the anticipatory bail granted to them. Accordingly, impugned order dated 13.08.2018 to the extent it grants pre-arrest to opposite party nos. 2 to 8 & 15 is set aside. Order of granting pre-arrest bail to opposite party nos.9 to 14, however, is not interfered with.

Opposite party nos. 2 to 8 & 15 are directed to appear before the court below and pray for regular bail in accordance with law within seven days from date. In the event, they do so the said court shall consider their prayer for regular bail independently and in accordance with law without being swayed by observations made in this order. If they fail to do so, the investigating agency shall be at liberty to take appropriate steps for their apprehension in accordance with law.

The application for cancellation of bail is, thus, disposed of.

(Manojit Mandal, J.)

(Joymalya Bagchi, J.)