

29.09.2020

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**CRM 6130 of 2020
(Via Video Conference)**

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Baishnabnagar P.S. Case No.374 of 2019 dated 19.07.2019 under Sections 302/201/34 and added Section 302 of the Indian Penal Code.

And

In the matter of: **Enamul Sk @ Enamul Hoque.**

....Petitioner.

Ms. Sweta Gandhi

...for the Petitioner.

Mr. Sudip Ghosh
Mr. Bitasok Banerjee

...for the State.

The petitioner undertakes to affirm and stamp the petition as per the Rules within one week of resumption of normal functioning of the court. The petition is taken up through video conference on the basis of such undertaking.

The petitioner says that the petitioner's prayer for anticipatory bail in the murder case was rejected on the basis of the statement of one Hukumat Sk recorded on July 19, 2019, but the petitioner has now discovered that Hukumat Sk was arrested and in police custody on the relevant date.

The State says that though Hukumat Sk was an accused in a case pertaining to Kaliachak P.S., Hukumat Sk was taken into custody only on July 21, 2019. According to the State, when Hukumat Sk's statement was recorded on July 19, 2019, Hukumat Sk was not in police custody. On the basis of Hukumat Sk's

statement, it appears that Hukumat Sk and the victim had gone together to purchase cattle and, on the way back, the petitioner and his associates demanded money from them. Upon the victim refusing to pay anything, the victim was threatened. The State says that Hukumat Sk and the victim continued together for some distance on their return, but upon the victim noticing that the petitioner and his associates were waiting for them, Hukumat Sk and the victim parted ways. The State says when Hukumat Sk discovered that the victim had not returned home, Hukumat Sk narrated the story to the victim's wife.

On the basis of Hukumat Sk's statement, there appears to be some material against the petitioner herein. The victim went missing and was subsequently found dead. The petitioner cannot be excused at this stage since his custodial interrogation appears to be vital.

CRM 6130 of 2020 is disposed of.

(Sanjib Banerjee, J.)

(Aniruddha Roy, J.)