

DL 33
25.11.2020
s.biswas

CRM 8612 of 2020

(Via Video Conference)

In re : An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Amta P.S. Case No. 54 of 2020 dated 14.02.2020 under Sections 279/304A/338 of the Indian Penal Code adding Section 304/308 of the IPC.

In the matter of : **Palash Das**

..... petitioner

Mr. Sandip Chakraborty

.....For the petitioner

Mrs. Zareen N. Khan

Mr. Mirza Firoj Ahmed Begg

.....For the State

The petitioner undertakes to affirm and stamp the petition as per the Rules within 48 hours of resumption of normal functioning of the court. The petition is taken up through video conference on the basis of such undertaking.

The petitioner claims that an initial road accident case was subsequently sought to be converted into a murder case and the petitioner pursued. The investigation has been completed and the charge-sheet filed.

The State says that there was an incident on the night of February 14, 2020 and the subsequent case is based on the statement of eye-witness Shyamal who was also injured in the incident.

What is evident is that Shyamal, deceased Ramesh, petitioner Palash and two other associates of Palash by the names of Akash and Samrajya gathered together on the night of February 14, 2020 and Shyamal claims that Palash, Akash and

Samrajya consumed alcohol and started insulting Shyamal and making lewd comments about Shyamal's wife.

It appears that the initial statement of Shyamal was that Shyamal and Ramesh left the place on a motorcycle and were subsequently chased by the three others and both Shyamal and Ramesh were beaten to the point that Shyamal lost his consciousness. However, in a subsequent statement recorded under Section 164 of the Code in May, 2020, Shyamal gave a completely different version of what had happened and there are several discrepancies between what Shyamal had said originally, immediately after the incident, and how Shyamal recalled the same incident three months later. The subsequent complaint, alleging murder, appears to have been filed in contemplation of Shyamal's further statement. The recording of Shyamal's subsequent statement under Section 164 of the Code was shortly after the murder case was instituted in May, 2020.

In view of the apparent anomaly in the two statements rendered by Shyamal and the entire murder case hinging on the incident as narrated by Shyamal, there is sufficient basis to allow the petitioner to enjoy his liberty till the trial is completed and he is convicted. The charge-sheet has been filed, indicating that the investigation has been completed.

The petitioner will not attempt to contact Shyamal or any member of Shyamal's family in any manner till the completion of the trial.

Subject to the above, in the event of arrest, the petitioner will be enlarged on bail upon furnishing a bond of Rs.10,000/- (Rupees ten thousand), with two sureties of like amount each,

one of whom must be local, to the satisfaction of the arresting officer. The petitioner will also abide by the conditions laid down in Section 438(2) of the Code.

CRM 8612 of 2020 is disposed of.

(Aniruddha Roy, J.)

(Sanjib Banerjee, J.)