

15.11.2021
SI. No.45
akd
[ALLOWED]

C. R. M. 6993 of 2021 [via video conferencing]

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 23.09.2021 in connection with Banshihari Police Station Case No. 111 of 2019 dated 30.07.2019 under Sections 302/34 of the Indian Penal Code.

And

In Re: ***Ujjal Sarkar***

... .. Petitioner

Mr. Bibaswan Bhattacharya
Mr. Kaustuv Shome
Mr. Sayan Kanjilal

... .. for the petitioner

Mr. Sudip Ghosh
Ms. Sayanti Santra

... .. for the State

It is submitted on behalf of the petitioner that the victim had suffered an accidental death. This fact is reflected even in the inquest report prepared immediately after the incident. It is also submitted that there is no motive for commission of the crime.

Learned advocate appearing for the State opposes the prayer for anticipatory bail and submits that due to previous enmity, petitioner had called the victim and thereafter had pushed him into river in a drunken condition. As a result, the victim died.

We have considered the materials on record including the statements of witnesses. Statements of witnesses do not disclose any previous enmity or motive to commit the crime. The inquest report discloses a case of accidental death. We have also considered the statement of one Gurupada Mondal, who claims that the victim had been pushed by the petitioner in water when the boat reached the shore.

In another portion of the statement, however, the said witness stated that he searched for the body of the victim which was recovered

on the next day. Moreover, this witness did not raise any alarm or lodge any contemporaneous complaint with regard to homicidal death.

The aforesaid inconsistencies in the statement and conduct of the said witness and the contemporaneous history recorded in the inquest report as 'accidental death' throws serious doubt with regard to the credibility of the said Gurupada Mondal as an eyewitness to the incident and a case of 'accidental death' cannot be ruled out. In view of the aforesaid facts, we are of the opinion that custodial interrogation of the accused/petitioner may not be necessary in the facts of the present case and he may be granted anticipatory bail.

Accordingly, we direct that in the event of arrest, the accused/petitioner, namely **Ujjal Sarkar**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, to the satisfaction of the arresting officer and also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioner shall appear before the court below and pray for regular bail within four weeks from date.

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

(Bivas Pattanayak, J.)

(Joymalya Bagchi, J.)