

15.11.2021.

Item No. 50

ap
(Allowed)

**C.R.M. 7022 of 2021
(via video conference)**

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 25.10.2021 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 the matter of: Subodh Chandra Majhi & Ors.

...Petitioners.

Mr. Bibaswan Bhattacharya,
Mr. Kaustav Shome,
Mr. Sayan Kanjilal.

...For the petitioners

Mr. Madhusudan Sur, Id. APP,
Mr. Dipankar Paramanick.

....For the State

It is submitted on behalf of the petitioners that the victim suffered accidental death. It is further submitted that in the inquest report it is stated that the victim had died accidentally. It is also submitted that no motive with regard to the alleged crime has been established.

Learned lawyer for the State opposes the prayer for anticipatory bail and submits that the victim was in an inebriated condition and was pushed by the petitioners into the water resulting in his death.

We have considered the materials on record and gone through the statement of witness, which do not disclose any motive for commission of the alleged crime. We have also considered the statement of one Gurupada Mondal, who claims that the victim had been pushed by the petitioners in water when the boat reached the shore.

In another portion of the statement, however, the said witness stated that they 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 eye-witness to the incident and a case of “accidental death” cannot be ruled out.

In view of the aforesaid facts, we are inclined in granting anticipatory bail to the petitioners.

Accordingly, we direct that in the event of arrest the petitioners shall be released on bail upon furnishing bond of Rs.10,000/- each, with two sureties of like amount each, to the satisfaction of the arresting officer and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

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

All concerned parties shall act in terms of the copy of the order downloaded from the official website of this Court.

(Bivas Pattanayak, J.)

(Joymalya Bagchi, J.)