

22.09.2021
Court No.01
Item No. 58
Allowed
Krishnendu

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

**CRM 487 of 2021
(Via Video Conference)**

In Re:- An application for anticipatory bail under section 438 of the
Code of Criminal Procedure ;

And

In Re : **Rahul Sarkar @ Pokai**

Petitioner

Mr. Joydeep Kanta Bhowmik

Mrs. Ankita Podder

For the Petitioner

Mr. Ujjwal Luksom

Mr. Tapan Bhattacharjee

For the State

Apprehending arrest in connection with Bhaktinagar Police
Station Case No. 99 of 2021 dated 31.01.2021 under sections
279/109/304/120B of the Indian Penal Code, the petitioner has filed
the present application.

Mr. Bhowmik, learned advocate appearing for the petitioner
submits that the victim girl died due to an accident while she was
accompanying the petitioner in a motor bike. The ingredient of section

304 of the Indian Penal Code does not stand satisfied and in the said conspectus, custodial interrogation of the petitioner is not necessary.

Mr. Luksom, learned advocate appearing for the State, submits that the victim girl fell down from the motor bike which was being rashly driven by the petitioner.

We have heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

Prima facie, it appears that there was no intent on the part of the petitioner to cause any harm to the victim girl and that she fell down from the motor bike and succumbed to the injuries. In view thereof, we are of the opinion that custodial interrogation of the petitioner is not warranted in the facts and circumstances of the case.

Accordingly, we allow this application and direct that in the event of arrest, the petitioner, namely, **Rahul Sarkar @ Pokai** , shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, 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 with a further condition that the petitioner shall co-operate with the investigation and meet with the Investigating Officer as and when called for.

The application for anticipatory bail, being C.R.M. No. 487 of 2021 is, thus, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Abhijit Gangopadhyay, J)

(Tapabrata Chakraborty, J)