

30 11.03.2022
(AD)
Court No.29
(Allowed)

C.R.M. (A) 1201 of 2022

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Baghmundi** P.S. Case No.**14 of 2022** dated **25/02/2022** under Sections **302/34** of the Indian Penal Code.

And

In the matter of: Sk Maidul Islam

....petitioner.

Mr. Shouvik Mitter
Mr. Suman Sengupta
Mr. Tapas Maity

...for the petitioner.

Mr. Saibal Bapuli, Ld. APP
Mr. Soumik Ganguli

...for the State.

Petitioner seeks anticipatory bail.

Learned Advocate appearing for the petitioner submits that the petitioner is an excise official. In his usual course of discharge of his duties, the petitioner arrested the deceased. The deceased was produced before the learned Magistrate on February 16, 2022. The deceased was taken into judicial custody on such date. The deceased ultimately expired on February 20, 2022. The petitioner did not have any control over the deceased in any point of time subsequent to February 16, 2022 till the time of his death. The petitioner is sought to be falsely implicated on the basis of the complaint lodged by the de facto complainant who is the brother of the deceased that too after seven days of the incident.

Learned Advocate appearing for the State draws the attention of the Court to the post-mortem report. He submits

that the death was due to the effects of ante-mortem injuries of brain as appearing from the information given in the post-mortem report. He submits that after the deceased was taken into custody on February 16, 2022 early in the morning, he was produced before the jurisdictional Magistrate on the same date itself when an order for judicial custody was passed. Since the deceased complained of uneasiness, he was removed to hospital on February 17, 2022. He was granted bail on February 18, 2022. The deceased furnished the bail bond. However, the deceased expired on February 20, 2022 in the hospital.

In the facts of the present case, there are three statements of the doctors treating the deceased prior to his death. Those statements narrate the incidents between the February 17, 2022 to February 20, 2022 where doctor says that the deceased did not bear the injuries as noted in the post-mortem report. There is, of course, the post-mortem report which depicts in number of injuries on the deceased. The post-mortem report states that the death was due to the effects of ante-mortem injuries of brain. The doctor conducting the post-mortem report recorded as statement under Section 161 of the Code of Criminal Procedure which states that the injuries noted in the body were not inflicted prior to February 16, 2022. The petitioner arrested the deceased on February 16, 2022.

In view of the statement of the doctor conducting the post-mortem report that the injuries noted in the body of the deceased were not prior to February 16, 2022, we are of the view that there are *prima facie* materials suggesting that there is hardly any

proximity between the incident alleged and the petitioner.

Considering the facts and circumstances as noted above and considering the fact that the petitioner is a government official, we grant anticipatory bail to the petitioner.

Accordingly, we direct that in the event of arrest, the petitioner shall 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 meet the Investigating Officer once a month till the conclusion of the investigation and that the petitioner shall appear before the jurisdictional Court and pray for regular bail within four weeks from date.

The prayer for anticipatory bail of the petitioner is allowed.

C.R.M. (A) 1201 of 2022 is disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)