

16.08. 2022  
item No.81  
n.b.  
ct. no. 42

**CRR 1386 of 2022**  
**Basir Sk @ Basirudding Sk. & Ors.**  
**Vs.**  
**The State of West Bengal & Anr.**

Mr. Kamal Ganguly  
.....for the Petitioners  
Mr. Ranabir Roy Choudhury,  
Mr. Mainak Gupta,  
... for the State.

The learned advocate for the petitioners have not pressed the application under Section 482 of the Code of Criminal procedure as against the petitioners Nos.2, 3 and 4.

Therefore, the instant revision is dismissed being not pressed as against the petitioner nos.2, 3 and 4. Petitioner no.1/Basir Sk @ Basirudding was arrested in connection with Suti Police Station Case No.416 of 2021 dated 13.10.2021 under Sections 341/ 423/ 307/ 354/ 34 of the Indian Penal Code. Subsequently, on the death of the victim on 30<sup>th</sup> November, 2021, the Investigating Officer added Section 302 of the Indian Penal Code in respect of the aforesaid police case and continued investigation of the case.

The petitioner no.1 got regular bail under Section 439 of the Code of Criminal Procedure vide order dated 14<sup>th</sup> January, 2022 passed by the Learned Additional Sessions Judge, 1<sup>st</sup> Court, Jangipur.

There is parallel development in the said case in respect of other three accused persons. They were released on

bail on 26<sup>th</sup> November, 2021, i.e. before addition of Section 302 in the said Suti Police Station Case No.416 of 2021. After addition of Section 302 of the IPC the order of anticipatory bail in respect of petitioner nos.2, 3 and 4 was rejected. However, the investigating authority under a false notion has been chasing the petitioner on the ground that his regular bail was also cancelled.

The problem arises due to the reason that the Learned Additional Sessions Judge, granted anticipatory bail in favour of all the four accused persons including the petitioners and subsequently, it was rejected against the said four accused persons without considering the fact that the petitioner was released on recovery bail after offence under Section 302 was added in the aforesaid police case.

Considering the submission made by the learned advocate for the petitioner and on perusal of the entire materials on record it is ascertained that the petitioner was never granted anticipatory bail and, therefore, the question of rejection of such anticipatory bail does not arise at all since the petitioner is enlarged with regular bail vide order dated 14<sup>th</sup> January, 2022 and the said order remains in force till date, the instant revision is disposed of with the observation that the petitioner cannot be harassed or taken into custody on the basis of the order of rejection of anticipatory bail.

The parties are at liberty to act on the server copy of the order.

**(Bibek Chaudhuri, J.)**