

25.03.2022

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Allowed

C.R.M. 4861 of 2021

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Serampur Police Station Case No. 325 of 2020 dated 20.10.2020 under Sections 448/326/307/354/506/34 of the Indian Penal Code subsequently adding Sections 302/354B of the Indian Penal Code.

And

In Re : Md. Hatim Ansari @ Hakim Ansari

..... petitioner

Mr. Bitasok Banerjee

.....for the petitioner

Mr. Swapan Banerjee

Ms. Purnima Ghosh

....for the State

It is submitted by the learned Counsel appearing for the petitioner that he is not the principal assailant and has been falsely implicated in the instant case. There is a dispute between the petitioner and the de facto complainant who are the tenants under him.

Learned Counsel appearing for the State opposes prayer for anticipatory bail. She submits that petitioner was present at the place of occurrence when the victim was murdered.

We have considered the materials on record. Principal accused viz. Abu Rehan Ansari @ Polo assaulted the victim on the head resulting in her death. Allegation of assault on other family members of the defacto complainant is not corroborated

by medical evidence. Petitioner was unarmed and no specific overt act is attributed to him. Whether petitioner shared common intention with the principal accused to murder requires to be assessed in the light of the aforesaid circumstances during trial.

However, keeping in mind the extent of complicity of the petitioner who does not appear to be the principal accused and as investigation is complete, we are inclined in granting 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 be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further conditions that the petitioner shall appear before the court below and pray for regular bail within a period of four weeks from date.

This application for anticipatory bail is, thus, allowed.

(Bivas Pattanayak, J.)

(Joymalya Bagchi, J.)

