

CRM 8686 of 2021
(via video conference)

Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure.

In the matter of : **Abbas Mondal**

..... petitioner

Ms. Pramita Banerjee
Mr. S. A. Munshi

.....For the petitioner

Mr. N. Ahmed, Ld. APP
Ms. Z. N. Khan
Ms. Ayantika Ray

.....For the State

Apprehending arrest in connection with Domkal Police Station Case No. 414/ 2021 dated 15.07.2021 under Sections 302/34 of the Indian Penal Code and Sections 25/27 of the Arms Act, the present application has been preferred.

The learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated in view of previous enmity. No specific overt act has been attributed to the petitioner. Co-accused persons similarly situated had also been enlarged on anticipatory bail by a coordinate Bench of this Court. Let the order as produced, be kept on record. She further submits that upon completion of investigation, charge sheet has already been submitted and as such, custodial interrogation is not warranted.

Mr. Ahmed, learned Additional Public Prosecutor appearing for the State opposes the petitioner's prayer and submits that the petitioner is not the principal assailant, but

he had conspired to bring the victim to the place of occurrence. In view of such incriminating materials on record, the petitioner is not entitled to the relief, as prayed for.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

Prima facie, the death was due to bullet injury. No specific overt act has been attributed to the petitioner to the effect that he had shot the victim. Considering the manner in which an offence has taken place, the nature of allegations and in view of the fact that the co-accused persons similarly situated, had been granted anticipatory bail, we are of the opinion that custodial interrogation is not necessary moreso when upon completion of investigation, charge sheet has also been submitted.

Accordingly, we allow this application and direct that in the event of arrest the petitioner, namely, **Abbas Mondal** 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 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

It is further directed that the petitioner shall not tamper with the evidence and/or intimidate the witnesses. He shall also attend learned Court below on all the dates, as specified for hearing.

In the event the petitioner fails to comply with the aforesaid directions, without any justifiable cause, the learned Court below shall be at liberty to cancel his bail, in accordance with law, without further reference to this Court.

The application for anticipatory bail, being CRM 8686 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.

(Ajoy Kumar Mukherjee, J.)

(Tapabrata Chakraborty, J.)