

18.11.2022
Serial no.1
Aloke

CRM (A) 4293 of 2022

In re : An Application for Anticipatory Bail under Section 438 of the Code of Criminal Procedure in connection with Nowda Police Station Case No. 205 of 2022 dated 03.08.2022 under Sections 302/120B/34 of the Indian Penal Code.

-And-

In the matter of : **Manarul Sekh @ Panna Sk. & Ors.**

... .. Petitioners

Mr. Milon Mukherjee, Sr. Advocate

Mr. A.A. Alamgir, Advocate

Mr. S.D. Mahapatra, Advocate

... .. For the Petitioners

Mr. Rudradipta Nandy, Id. APP

Ms. Sonali Das, Advocate

... ..For the State

Petitioners seek anticipatory bail.

The application for anticipatory bail is taken up for consideration subsequent to the order dated November 3, 2022, where we noted that there were two statements recorded under Section 161 of the Code of Criminal Procedure by two persons claiming that one Bapan Ansari was riding a motorcycle which hit the deceased.

We required the Investigating Officer to request the doctor conducting the postmortem of the deceased as to whether the doctor found any other bones of the deceased broken or not and whether the skeleton of the deceased examined, were in such a condition so as to return a finding as to whether any other bones of the deceased were broken or not.

We also directed the Investigating Officer to investigate the owner of the motorcycle, record a statement of the owner of the motorcycle, and try to identify whether or not the motorcycle spoken of was involved in the incident. The Investigating Officer was also directed to look into the injury reports of Bapan Ansari and the two pillion riders of the motorcycle.

Learned Advocate appearing for the State draws the attention of the Court to the materials in the case diary collected subsequent to the order dated November 3, 2022.

By the letter dated November 10, 2022 the doctor conducting the postmortem is of the opinion that there were no other bones of the deceased found broken at the time of conducting the postmortem.

The case diary contains a statement of Bapan Ansari recorded under Section 161 of the Code of Criminal Procedure where he claims that he was riding the motorcycle which met with an accident in which, the deceased was hit. He claims that on the incident happening he lost consciousness and after recovery found himself admitted at Murshidabad Medical College and Hospital.

The case diary contains an injury report of Bapan Ansari. Injury report states that the same was prepared on the basis of the bed head ticket of Bapan Ansari at the material point of time. The bed head ticket of Bapan Ansari made available in the case diary suggests that Bapan met with a road traffic accident. It appears that Bapan Ansari was admitted to Murshidabad Medical College and Hospital at the relevant point of time. There is another bed head ticket of one of the pillion rider of the motorcycle in which Bapan Ansari was involved. There is a statement recorded under Section 161 of the Code of Criminal Procedure of the owner of the motorcycle to the effect that he used to make over his motorcycle for use of Bapan Ansari. He states that at the material point of time, he made over the motorcycle to Bapan Ansari for his use.

In such circumstances, given the materials in the case diary, which suggest that the deceased succumbed to injuries after meeting with an accident, we deem it appropriate to grant anticipatory bail to the petitioners.

Accordingly, we direct that in the event of arrest the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand Only) each, 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 condition that the petitioners will report to the Investigating Officer once in a week till the conclusion of the investigation and on further condition that the petitioners shall appear on every date before the jurisdictional Court on and from the date fixed for appearance of the accused and in default the jurisdictional Court will pass appropriate order to secure the presence of the petitioners in Court including cancelling the anticipatory bail granted without further reference to this Court.

Prayer for anticipatory bail of the petitioners is allowed.

CRM (A) 4293 of 2022 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)