

12.09.2022
Serial no. 26
[Dd]
(Anticipatory bail)
Allowed)

CRM (A) 4366 of 2022

In re : An Application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure in connection with **Kalyani** Police Station Case No. **346** of **2022** dated **28.06.2022** under Sections **304** of the Indian Penal Code.

-And-

In the matter of : **Shuvojit Mondal**

... .. Petitioner

Mr. Palash Mukherjee,
Mr. Pinak Kr. Mitra, Advocates
... .. *For the Petitioner*

Mr. Binay Panda,
Mr. Subham Bhakat, Advocates
... ..*For the State*

Petitioner prays for anticipatory bail.

Learned advocate appearing for the petitioner submits that the petitioner is a Doctor by profession. A patient was brought to him for treatment. Apparently, the patient party was dissatisfied with the service rendered. A compliant was lodged with the West Bengal Institute of Health Sciences which was rejected. He relies upon **(2005) 6 SCC 1 [Jacob Mathew vs. State of Punjab & Anr.]** and submits that the police are not following the procedure laid down therein.

Learned advocate appearing for the State draws the attention of the Court to the materials in the case dairy including the statement of the friend of the victim recorded under Section 164 of the Criminal Procedure Code.

The petitioner is a Doctor by profession.

A patient was brought to him for treatment. The patient expired.

Whether or not the petitioner is guilty of such negligence as to implicate the petitioner in a charge under Section 304 of the Indian Penal Code, 1860 is debatable.

In such circumstances, we are inclined to 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 be 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 report before the Investigating Officer as and when called for till the conclusion of the investigation and on further condition that the petitioner 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 petitioner in Court including cancelling the anticipatory bail granted without further reference to this Court.

Prayer for anticipatory bail of the petitioner is **allowed**.

CRM (A) 4366 of 2022 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)