

14.01.2022
Item no.31.
Court No.1.
AB
(Rejected)

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI
(Via Video Conference)**

CRM (A) 38 of 2022

In Re: An Application for Anticipatory Bail under Section 438 of the Code of Criminal Procedure in connection with Pundibari Police Station Case No.682 of 2019 Dated 31.12.2019 under Sections 448/341/325/326/307/34/302 of the Indian Penal Code

And

In the matter of: Ashis Dhar @ Ghata

.....Petitioner.

Mr. Sayan De,
Ms. Esha Acharyafor the Petitioner.

Mr. A. S. Chakraborty, Id. APP,
Mr. Sourav Gangulyfor the State.

The charge initially was under Sections 325/326/307 34 of the Indian Penal Code. The victim succumbed to the injury inflicted on him. Accordingly, Section 302 of the Indian Penal Code has been added.

The petitioner says that he is innocent. He has no involvement in the alleged offence.

Learned Counsel draws our attention to the statement of a witness recorded under Section 164 of the Code of Criminal Procedure. It is strange that the witness goes out of his way to say that this petitioner is innocent. The same person in his statement recorded under Section 161 of the Code of Criminal

Procedure had implicated the petitioner. We are suspicious of the credibility of this witness.

We find that the mother of the victim lodged a separate complaint on March 12, 2020, before the Superintendent of Police, Cooch Behar, where she categorically stated that this petitioner was the leader of the team which attacked the victim causing fatal injury to him. Investigation is in progress. Charge sheet is yet to be filed.

On an overall assessment of the facts and circumstances of the case and the prima facie incriminating material against the petitioner, we are not inclined to allow the petitioner's prayer for anticipatory bail.

C.R.M. (A) No.38 of 2022 is, accordingly, dismissed.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Aniruddha Roy, J.)

(Arijit Banerjee, J.)