

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

05.05.2022

Item no.04
Court No.01
Avijit Mitra

CRM (A) 204 of 2022

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure;

And

In Re : Subham Ghosh

.... petitioner

Mr. Arnab Saha

....for the petitioner

Mr. Kallol Acharjee,

Mr. Tapan Bhattacharjee

..... for the State

Apprehending arrest in connection with Alipurduar Police Station Case No.58 of 2022 dated 25th January, 2022 under Sections 341/323/307/354/34 of the Indian Penal Code, the present application has been preferred.

Mr. Saha, learned advocate appearing for the petitioner submits that the incident occurred on the spur of the moment and the petitioner has been falsely implicated in the instant case. The co-accused persons have already been granted bail by the learned Court below. The allegations are omnibus in nature and in the said conspectus, the custodial interrogation of the petitioner may not be necessary and he may be granted anticipatory bail on any stringent condition.

Mr. Acharjee, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to several documents in the case diary.

He has no instruction as to whether any specific case is pending against the petitioner. He has also not been able to show any injury report or statement of the victim under Section 164 of the Code in the case diary.

Having heard the learned advocates appearing for the respective parties and considering the materials in the case diary, the nature of allegations, the manner in which the offence has taken place and the possible extent of complicity of the petitioner in the alleged offence, we are of the opinion that his custodial interrogation is not necessary. However, his movement needs to be restricted.

Accordingly, we direct that in the event of arrest, the petitioner namely, **Subham Ghosh**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand Only) each, 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 with a further condition that the petitioner shall not enter the jurisdiction of Alipurduar Police Station save and except for meeting with the Investigating Officer once a week till investigation is complete and for attending the learned Court below on all the dates as specified for hearing.

The petitioner shall also intimate the address where he would be residing to the Investigating Officer immediately.

It is further directed that the petitioner shall not tamper with the evidence or intimidate the witnesses.

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 petitioner's bail, in accordance with law, without further reference to this Court.

The application for anticipatory bail CRM (A) 204 of 2022 is 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.)