

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

10.05.2022
Court No.01
rpan/ 06

CRM (A) 243 of 2022

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

And

In Re: Tashir @ Tachir @ Tachhib Miah

- Petitioner

Mr. Satyaki Basu

...for the Petitioner.

Mr. Aditi Shankar Chakraborty, Ld. A.P.P.,

Mr. Biswarup Roy

...for the State.

Apprehending arrest in connection with Mathabhanga Police Station Case No.421 of 2017 dated 30.08.2017 under Sections 304/109/34 of the Indian Penal Code, the present application has been preferred.

The 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 same. No specific overt act has been attributed to the petitioner and upon conclusion of investigation charge-sheet has also been filed. In view thereof, custodial interrogation of the petitioner may not be necessary.

Mr. Roy, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to the statements of the witnesses as recorded under Sections 161 and 164 of the Code as well as the *post-mortem* report.

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

Prima facie, no specific overt act has been attributed to the petitioner. Considering 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, more so when upon completion of investigation charge-sheet has been submitted.

Accordingly, we direct that in the event of arrest the petitioner, namely, **Tashir @ Tachir @ Tachhib Miah** 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 with a further condition that he shall not enter the jurisdiction of Mathabhanga Police Station until further orders. He shall also intimate the address where he shall be residing to the Officer-in-charge, Mathabhanga Police Station immediately.

It is further directed that the petitioner shall appear before the learned Court below on all the dates specified for hearing and shall not intimidate the witnesses and/or tamper with the evidence in any manner whatsoever.

In the event the petitioner fails to comply with any of the aforesaid directions, without justifiable cause, the learned trial court shall be at liberty to cancel the petitioner's bail, without any further reference to this Court.

The application for anticipatory bail, being CRM (A) 243 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.)