

14.08.2023
(D/L 04)
Ct. No.29
Allowed
(SKB)

CRM (A) 2462 of 2023

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Nandigram P.S. Case No.122 of 2021 dated 27.03.2021 under Sections 302/341/323/325/307/427/379/411/506/149/109/34 of the Indian Penal Code (G.R. Case No.463 of 2021).

In the matter of : Biswajit Pradhan and others

... Petitioners

Mr. Rajdeep Mazumder,
Mr. Moyukh Mukherjee,
Mr. Pritam Roy,
Mr. Soewel Bhattacharjee

... for the petitioners

Mr. Rudradipta Nandy, ld. APP
Mr. Subroto Roy

... for the State

1. Heard the learned Counsel for the parties.
2. Considered the materials placed before us including the statement of the two inured eye witnesses namely, Bidyut Jana and Krishnakanta Jana recorded under Section 161 Cr.P.C. once by the police on 27.03.2021, on the second occasion by the CID in the month of June, 2021 and third occasion by the learned Magistrate under Section 164 Cr.P.C. on 10.06.2021. We also perused the post-mortem report from where it is found that death of the deceased was due to anti-mortem head injury.
3. Some of the assailants are alleged to have assaulted the deceased coming in a group of 40/45 persons by stick, iron rod, chain and sharp cutting weapons etc. We do not find any injury on the body of the deceased caused by sharp cutting weapons as revealed from the post-mortem

report. So far as the implications of the present petitioners are concerned, the FIR lodged by the widow of the deceased is silent about specific overt act by the present petitioners. Statements of the aforesaid two witnesses, namely, Bidyut Jana and Krishnakanta Jana recorded under Section 161 Cr.P.C. on 27.3.2021 is also silent about any specific role played by the present petitioners in the entire transaction. Aforesaid eye witnesses for the first time have stated before the CID officer in their statements recorded under Sections 161 Cr.P.C. that the present petitioners were also present at the time of transaction. In their statements recorded under Section 164 Cr.P.C. same thing has been recorded. From the aforesaid facts, it is found that the eyewitnesses have not attributed any specific overt act to the petitioners even in the statements recorded by the CID and the Magistrate though they have only stated about their presence during the transaction.

4. Offences alleged against the petitioners have been charged by aid of Section 34 IPC. It is our duty at this stage to find out the role of the petitioners in the alleged transaction with a view to *prima facie* find the common intention and the joint liability that falls. It is found from the statements of the witnesses and the FIR that Jagannath, Saktipada, Sidhartha and Ranjan are the co-accused persons against whom specific role has been attributed and they are stated to have been released on regular bail in the meantime.
5. Charge-sheet has already been filed.
6. In that view of the matter, we do not find any justification for custodial interrogation of the present petitioners at this stage.
7. Regard being had to such facts and submissions, factum of permanent residence of the petitioners, nature of allegation, nature of evidence and completion of

investigation, it is directed that each of the petitioner shall surrender before the learned ACJM, Haldia, Purba Medinipur in the G.R. Case No.463 of 2021 arising out of the aforesaid P.S. case within 15 days from today. On their surrender and application for bail, they shall be released on bail by the aforesaid Court on such terms and conditions as deemed just and proper in the facts and circumstances of the case.

8. Accordingly, the prayer for the anticipatory bail is allowed.
9. The application being CRM(A) 2462 of 2023 is disposed of.
10. The learned court below is hereby directed to act upon the server copy of this order.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)