

25.07.2023

SL. 9

Court No. 29

Sourav

(Allowed)

C.R.M. (A) 2463 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Golfgreen** Police Station Case No. **177** of **2022** dated **05.08.2022** under Sections **304/34** IPC.

And

In the matter of: **Amitabha Tamang & Anr.**

....petitioners.

Mr. Sabyasachi Banerjee

Mr. Sourav Chatterjee

Ms. Jeenia Rudra

Ms. Megha Chanda

Ms. Nahid Ahmed

...for the petitioners.

Mr. Ranabir Roy Chowdhury

Mr. Sandip Chakrabarty

... for the State.

1. Heard learned Counsel for the parties.
2. The petitioners are the police officers who are alleged to have called the deceased to the police station. It is, however, fairly submitted at the Bar that the two police personnel who are alleged to have assaulted the deceased have already been enlarged on regular bail.
3. The present petitioners are, however, not responsible so far as assault of the deceased is concerned. As found from the post mortem report, the deceased had sustained injuries on both his buttocks, one of the thigh and palm which are not vital parts of the body. But all the injuries are stated to have shown vital reactions which in medical sense means there has been scab formation and colouration etc. as happens in a living person.
4. From the post mortem report, we further find that the liver of

the deceased was found to be enlarged, congested, cirrhotic changes were observed. As a matter of extra caution, the State got the matter examined by department of Forensic and State Institute of Post-Graduate Medical Education and Research, Kolkata. The report was prepared by two experts on the subject and they are Dr. Biswanath Saren and Dr. Indrani Das. From their report, it is found that 61.14mg of Ethyl Alcohol/100ml of blood was found in the blood sample of the deceased and that is indicative of the fact that the victim was heavily drunk. This report corroborates the post mortem finding of the medical officer regarding the condition of liver of the deceased.

5. It is further found from the aforesaid experts' opinion that the bodily injury caused to the deceased is not sufficient in ordinary course of nature to cause death.
6. Charge-sheet is stated to have been filed in the meantime.
7. Regard being had to such facts and submissions, factum of permanent residence of the petitioners, nature of evidence and completion of investigation, it is directed that each of the petitioner shall surrender before the learned Additional Chief Judicial Magistrate, Alipore, South 24 Parganas in A.C.G.R. Case No. 3403 of 2022 arising out of the aforesaid P.S. case within 15 days from today. On their appearance and application for bail they shall be released on bail 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) 2463 of 2023** is disposed of.
10. Learned Additional Chief Judicial Magistrate, Alipore, South
24 Parganas is hereby directed to act upon the server copy of
this order, if required.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

