

CRM (A) 2881 of 2023

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on **06.07.2023** in connection with **Sagarpara** Police Station Case No.**81 of 2023** dated **30.03.2023** under Sections **302/34** of the IPC and Charge Sheet submitted under Sections **302/326/307/109/120B/34** of the IPC.

And

In Re: **Bapan Sk @ Md Bapan Mondal @ Bapan Mondal**

... ... Petitioner.

Mr. A. Bhattacharya

Mr. N.S. Ghosh

Mr. T. Gupta

... for the Petitioner.

Mr. Madhusudan Sur

Mr. Manoranjan Mahata

... ... for the State.

Ms. Shabana Hasin

... ... for the de facto.

1. Vakalatnama filed by Ms. Shabana Hasin on behalf of the de facto complainant is taken on record.

2. Heard learned Counsel for both the parties.

3. There is eyewitnesses regarding the occurrence. All the eyewitnesses including the injured persons in their statements recorded under section 161 of the CrPC have implicated the present petitioner. In the transaction one person has died and two persons have suffered injury.

4. Learned counsel for the petitioner submits that in the case filed by the present informant, which is anterior in time to the present transaction, the petitioner having received injury was already shifted to the hospital by the time the present transaction happened.

5. Such a plea of alibi can best be taken as defence but we cannot go into the veracity of such plea at this stage.

6. In view of the gravity of the offence and quantum of punishment prescribed, we are not inclined to exercise our discretion in favour of the petitioner under section 438 of the CrPC.

7. Accordingly, the prayer for anticipatory bail is rejected.

8. The application being **CRM (A) 2881 of 2023** is dismissed.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)