

31.08.2023
SL. 53
Court No. 29
Sourav
(Rejected)

C.R.M. (A) 3580 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Girish Park** Police Station Case No. **144** dated **18.07.2022** under Sections **304/34** IPC (corresponding to G.R. Case No. 899 of 2022).

And

In the matter of: **Sk. Ismail & Ors.**

....petitioners.

Mr. Ashraf Ali
Mr. Sankar Banerjee

...for the petitioners.

Mr. Neguive Ahmed, Ld. APP
Ms. Amita Gaur

... for the State.

1. Heard learned Counsel for the parties.
2. The earlier petition for anticipatory bail filed by the present petitioners was rejected vide order dated 16.02.2023 passed in CRM (A) 673 of 2023.
3. It is submitted by learned Counsel for the petitioner that during previous occasion many vital documents like post mortem report etc., could not be placed before this Court to arrive at a just decision.
4. From the order dated 16.02.2023, we find that the prayer for anticipatory bail of the present petitioners has been rejected earlier on the ground of gravity of the offence and the involvement of the petitioners. We are afraid, we cannot review the said order on the basis of new documents in view of Bar under Section 362 Cr.P.C. and grounds put forth now is also not a supervening circumstance.
5. The application being **CRM (A) 3580 of 2023** is dismissed.

6. However, if the petitioners surrender before the CMM, Calcutta in G.R. Case No. 899 of 2022 within 15 days from today by giving three days advance notice to the Ld. PP/APP attached to that Court and files application for bail, the same shall be considered and disposed of on merit on the same day.
7. Learned CMM, Calcutta is directed to consider all the papers supplied by the petitioners' counsel including the post mortem report etc., after verifying the same with the materials in the C.D. and come to a finding as to whether death of the deceased has been caused by the alleged assault attributed to the petitioners.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

