

01.09.2023

SL. 15

Court No. 29

Suvayan

(Allowed)

C.R.M. (A) 3603 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Balurghat** P.S. Case No. **234 of 2023** dated **29.03.2023** under Sections **341/325/307/34** of the IPC adding Section **302** corresponding to G.R. Case No. **587 of 2023** pending before the learned CJM, Dakshin Dinajpur, Balurghat

And

In the matter of: **Swapan Mahanta @ Swapan Mohanta**

....petitioner.

Mr. Kaushik Chaudhury

Ms. Busra Khatun

...for the petitioner.

Mr. Debabrata Chatterjee

Mr. Santanu Chatterjee

...for the State.

1. Heard learned Counsel for both the parties.
2. Charge-sheet is stated to have been submitted under Sections 341/325/307/34 IPC adding Section 302 IPC against the present petitioner and co-accused Suraj Rabi Das. From the statements of the eyewitnesses as recorded under Section 161 Cr.P.C. in course of investigation it reveals that on the fateful day and hour the victim was assaulted by the present petitioner by fist and blows and thereafter one co-accused intervened and the said co-accused Suraj Rabi Das first pressed the throat of the victim and thereafter lifted him to the air and dashed him on the ground. For which the victim might have suffered head injury on his parietal region causing death subsequently.
3. From the series of events it, thus, appears *prima facie* that the present petitioner is not the principal assailant for whom the victim suffered serious injury and death. The complicity of the present petitioner may be fixed by the learned Trial Court by the aid of Section 34 IPC in the trial on evidence.
4. Regard being had to facts and submissions, factum of permanent

residence of the petitioner, nature of allegation, nature of evidence and completion of investigation, it is directed that the petitioner shall surrender before the learned Chief Judicial Magistrate, Dakshin Dinajpur, Balurghat within 15 days from today in the G.R. case No. 587 of 2023 arising out of aforesaid P.S. case. On his appearance and application for bail the petitioner shall be released on bail on such terms and conditions as deemed just and proper in the facts and circumstances of the case including the condition that:

- i) The petitioner shall appear before the learned Trial Court on each date of substantive hearing subject to the provision of Section 317 Cr.P.C.
5. The learned CJM, Dakshin Dinajpur, Balurghat is directed to act upon the server copy of this order, if required.
 6. Accordingly, the prayer for the anticipatory bail is allowed.
 7. The application being **CRM (A) 3603 of 2023** is disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

