

22.11.2023

SL. 39

Court No. 29

ss/SD

(Allowed)

C.R.M. (A) 4428 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Manichchak** Police Station Case No. **454** of **2023** dated **20.6.2023** under Sections **302/34** IPC (corresponding to G.R. Case No.3874 of 2023).

And

In the matter of: **Suranjan Mahalder**

....petitioner.

Mr. Rana Mukherjee

...for the petitioner.

Mr. Sanjoy Bardhan

Ms. Debjani Dasgupta

... for the State.

1. Heard learned Counsel for the parties.
2. In course of submission, learned Advocate for the petitioner at the very outset submits before this Court that though one Mongal Mahalder on 19.6.2023 in his statement recorded under Section 161 Cr.P.C. implicated one Sarban Mahaldar being the principal assailant but in his statement recorded under Section 164 Cr.P.C. on 26.5.2023, he has improved his case and take a contrary view implicating the present petitioner as a principal assailant which has however been disputed by the learned Counsel for the State.
3. On comparative study of the entire materials of the case diary including the aforementioned statement vis-a-vis the post mortem report of the victim, we find that apart from other injuries one lacerated injury (vide item no.3) is there at the forehead of the deceased. For the purpose of disposing the instant application, we are, however, inclined to rely upon the

first statement recorded on 19.6.2023 especially when investigation has already been completed.

4. 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 the petitioner shall surrender before the learned Additional Chief Judicial Magistrate, Malda in G.R. Case No. 3874 of 2023 arising out of the aforesaid P.S. case within 15 days from today. On his appearance and application for bail, he shall be released on bail on such terms and conditions as deemed just and proper in the facts and circumstances of the case.
5. Accordingly, the prayer for anticipatory bail is allowed.
6. The application being **CRM (A) 4428 of 2023** is disposed of.
7. Learned Additional Chief Judicial Magistrate, Malda is hereby directed to act upon the server copy of this order, if required.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)