

22.11.2023

SL. 49

Court No. 29

Sourav

(Partly

Allowed)

C.R.M. (A) 4465 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Mururai** Police Station Case No. **199** of **2023** dated **10.08.2023** under Sections **341/354/302/34** IPC (corresponding to G.R. Case No. 1264 of 2023 pending before the learned ACJM, Rampurhat, Birbhum).

And

In the matter of: **Chumki Mondal & Anr.**

....petitioners.

Mr. Bitasok Banerjee

Mr. Abdus Salam

...for the petitioners.

Mr. Iqbal kabir

... for the State.

1. Heard learned Counsel for the parties.
2. On perusal of the entire materials as placed before us, it reveals that it is the version of the witnesses that on the alleged day of incident, the victim was called by the accused persons namely, Sujit Mondal, Rajkumar Mondal (petitioner no. 2), Kanchan Mondal and Latan Mondal and, thereafter, they jointly assaulted him. So far as the petitioner no. 1 (Chumki Mondal) is concerned, it is the version of the witnesses that she and one Tilaka Mondal handed over one 'dhama' and spade to the assailants.
3. In absence of any specific overt act on the part of the petitioner no. 1 and she being a lady and there being only one injury on the parietal region of the head of the deceased, we are inclined to take a lenient view in favour of the petitioner no. 1.
4. Regard being had to such facts and submissions, factum of

permanent residence of the petitioner no. 1, nature of allegation, nature of evidence and completion of investigation, it is directed that the petitioner no. 1 shall surrender before the learned Additional Chief Judicial Magistrate, Rampurhat, Birbhum in G.R. Case No. 1264 of 2023 arising out of the aforesaid P.S. case within 15 days from today. On her appearance and application for bail, she shall be released on bail on such terms and conditions as deemed just and proper in the facts and circumstances of the case.

5. However, considering the *prima facie* involvement of the petitioner no. 2 (Rajkumar Mondal) in the alleged crime, we are not inclined to allow his prayer for anticipatory bail under Section 438 Cr.P.C. According prayer for anticipatory bail of petitioner no. 2 is rejected.
6. Accordingly, **CRM (A) 4465 of 2023** is allowed in part.
7. The application being **CRM (A) 4465 of 2023** is disposed of.
8. Learned Additional Chief Judicial Magistrate, Rampurhat, Birbhum is hereby directed to act upon the server copy of this order, if required.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

