

22.11.2023
SL. 56
Court No. 29
Suvayan
(Partly Allowed)

C.R.M. (A) 4489 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Purbasthali** Police Station Case No. **185 of 2023** dated **30.08.2023** under Sections **341/323/325/326/307/34** and added Section **302** of the IPC corresponding to G.R. Case No. **1963 of 2023**.

And

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

....petitioners.

Mr. Atanu Biswas
Mr. Mrinal Saha

...for the petitioners.

Mr. N. Ahmed
Ms. Ayantika Roy

...for the State.

1. Heard learned Advocate for both the parties.
2. The petitioner No. 2 (Bahauddin Sk.) and petitioner No. 5 (Idbas Sk.) having already been arrested, learned Counsel for the petitioners does not press this application in respect of petitioner Nos. 2 and 5.
3. Accordingly, this application in respect of petitioner Nos. 2 and 5 is dismissed as not pressed.
4. From the postmortem report we find that the death of the deceased is caused by the fatal blow on the perieto temporal area of the head with the corresponding internal hemorrhage. Beside the aforesaid fatal injury there are some abrasions and minor injuries on the body of the deceased. The eyewitnesses have named all the present petitioners and others so far as the assault is concerned but none of the witnesses has alleged any specific overt act against each of the assailant. From the tenure of the statement of the witnesses, we do not find to prudent to extend the rigour of Section 34 IPC to the

accused persons who have not taken active part in the assault at this point diluting their right to liberty.

5. It is for the Trial Court to find out how far the provision under Section 34 IPC can be stretched the fatal assault being one obviously mounted by one of the assailant.
6. Regard being had to such facts and submissions, factum of permanent residence of the petitioner Nos. 1, 3, 4, 6 and 7, nature of allegation and substantial progress in investigation, it is directed that petitioner Nos. 1, 3, 4, 6 and 7 shall be released on bail by the Arresting Officer in the event of their arrest in the aforesaid P.S. case on such terms and conditions as deemed just and proper in the facts and circumstances of the case including the conditions that:
 - i) The petitioner Nos. 1, 3, 6 and 7 are directed to appear before the I.O. once in a week on the day and time fixed by the I.O. for the purpose of investigation till submission of F.F.
 - ii) The petitioner No. 4 is directed to appear before the I.O. for the purpose of investigation as and when required from sunrise to sunset till submission of F.F.
 - iii) The petitioner shall not threaten, induce or coerce any witness of this case in any manner whatsoever during the currency of this order.
7. The concerned Arresting Officer is hereby directed to act upon the server copy of this order.
8. Within 21 days from today petitioner Nos. 1, 3, 4, 6 and 7

shall appear before the I.O. alongwith a server copy/certified copy of this order. If server copy is supplied, learned I.O. shall act upon that.

9. Accordingly, the prayer for the anticipatory bail is partly allowed.

10. The application being **CRM (A) 4489 of 2023** is disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

