

05.12.2023
ML. 38
Court No. 29
Suvayan
(Allowed)

C.R.M. (A) 4535 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Berhampore** Police Station Case No. **1033 of 2023** dated **27.07.2023** under Sections **448/302/34** of the IPC corresponding to G.R. Case No. **3449 of 2023**.

And

In the matter of: **Prasanta Ghosh @ Jata Ghosh & Ors.**

....petitioners.

Ms. Minoti Gomes

...for the petitioners.

Mr. Sanjoy Bardhan

Ms. Baishakhi Chatterjee

...for the State.

Mr. Somnath Adhikary

...for the de facto complainant.

1. Heard learned Counsel for both the parties.
2. From the materials as placed before us it reveals that though the instant case was initiated under Sections 448/302/34 IPC but from the postmortem report of the victim as well as from the statement of the autopsy surgeon it *prima facie* appears to us that the death of the deceased occurred due to effect of hanging and those are ante mortem in nature. From the statements of the witnesses as available in the C.D., we find that one Sanajit Ghosh is the principal accused and the present petitioner No. 2 is alleged to have been assisted him in committing the murder.
3. However, from the statements as referred to above, we find that such allegations are at the fringe. We further find that the role of the present petitioner Nos. 1, 3 and 4 in the alleged crime has been attributed by the aid of Section 34 IPC though *prima facie* we do not find any specific overt act as against them in respect of the alleged crime.
4. Regard being had to such facts and submissions, factum of

permanent residence of the petitioners, nature of allegation, nature of evidence and substantial progress in investigation, it is directed that each of the petitioner 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 petitioners 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 petitioners shall not threaten, induce or coerce any witness of this case in any manner whatsoever during the currency of this order.

5. The concerned Arresting Officer is hereby directed to act upon the server copy of this order.
6. Within 21 days from today each of the petitioner 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.
7. Accordingly, the prayer for the anticipatory bail is allowed.
8. The application being **CRM (A) 4535 of 2023** is disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

