

13.06.2023
Court No.01
Item No. 5
Rejected

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

sg

CRM (A) 322 of 2023

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Phansidewa Police Station Case No. 313 of 2022 dated 27.06.2022 under Sections 147/148/149/323/304/506 IPC.
And

In Re: Md. Ainul Haque	Petitioner
Mr. Sekhar Kumar Basu, Sr. Adv.	
Mr. Antarikhya Basu	
Mr. Hillol Saha Poder	For the Petitioner
Mr. Gobinda Ghosh	For the de-facto complainant
Mr. Kallol Chatterjee	
Mr. Saikat Chatterjee	For the State

Mr. Sekhar Kumar Basu, learned Senior Counsel representing the petitioner submits that the petitioner is innocent and due to political rivalry, he has been implicated in the present case.

The learned Counsel for the State, in opposing the prayer for anticipatory bail, has referred to the medical reports dated 23rd May, 2022 and submits that the deceased had a history of cardiac disease.

However, on a specific question being put to the learned Counsel for the State as to the immediate cause of death, our attention is drawn to the daily clinical notes of the Department of Health and Family Welfare, Government of West Bengal appearing at pages 54 and 55 of the case diary, which shows that on the date of alleged incident, he was taken to hospital with severe chest pain.

The learned Counsel for the de-facto complainant submits that the immediate cause of death is the assault by the petitioner with other assailants upon the victim which would be evident from the medical reports.

Considering the materials available with the case diary, the statement of witnesses recorded under Section 161 of the Code of Criminal Procedure and also having considered the medical reports appearing at pages 54 and 55 of the case diary and the nature of involvement of the petitioner in the commission of the alleged offence, we are not inclined to grant anticipatory bail to the petitioner.

Accordingly, the prayer for anticipatory bail of the petitioner is rejected.

CRM (A) 322 of 2023 is, thus, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Raja Basu Chowdhury, J)

(Soumen Sen, J)