

**CRM 11265 of 2020
(Through Video Conference)**

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Salboni P.S. Case No.149 of 2020 dated 02.09.2020 under Sections 326B/376D of the Indian Penal Code.

And

In the matter of: **Samar Nandi & Anr.**

.... Petitioners

Mr. Malay Bhattcharyya
Mr. Sayak Chakraborty

... For the Petitioners

Mr. N.P. Agarwala
Ms. Manisha Sharma

... For the State

The petitioners are two brothers who are neighbours of the victim lady. The charge against the petitioners is of acid attack under Section 326-B of The Penal Code.

Learned counsel for the petitioners submits that relevant records show that the petitioners committed offence on the victim lady under Section 376 of the Indian Penal Code, first on 25th November, 2019 and then again on 15th December, 2019. The victim lady, however, made a written complaint against the petitioners only on 31st July, 2020 after a considerable length of time and the First Information Report was registered only on 2nd September, 2020. It is also submitted that the 164 statement does not indicate any offence under Section 326-B of The Penal Code.

Upon considering the relevant materials, we find that the victim lady did not mention any offence under Section 326-B before the

Officer-in-Charge, Shalboni Police Station and stated the said offence only later in the 164 statement. Further, the alleged offence under Section 376-D of The Penal Code was first committed on 25th November, 2019 and on 15th December, 2019 followed by the written complaint made almost eight months after the alleged incident. The medical report significantly does not indicate any injury mark relating to acid attack on the victim's body. The report clearly states that there is no evidence of any kind of forcible sexual intercourse and no injury marks have been found on the victim's body. The endorsement in the report is to the effect: "nothing specific".

By reasons of the above, we are inclined to grant anticipatory bail to the petitioners.

The petitioners, in the event of arrest, shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand only) each, with two sureties each of like amount, to the satisfaction of the arresting officer. The petitioners will be subjected to the conditions laid down under Section 438(2) of The Code of Criminal Procedure. The petitioners will make themselves available for the purpose of enquiry/investigation before the concerned police authority or the magistrate, as the case may be.

CRM 11265 of 2020 is disposed of in terms of the above.

(Moushumi Bhattacharya, J.)

(Kausik Chanda, J.)