

05.03.2021

Court No.28

rpan/ 32

C.R.M. 575 of 2021
(Via video Conference)

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure ;

And

In re: **Manoj Mondal & Another**

-Petitioners.

Mr. Angshuman Chakraborty,

Mr. S. S. Saha

....For the Petitioners.

Mr. Imran Ali,

Mr. Sk. Arif Hossain

....For the State

Apprehending arrest in connection with Dhantala Police Station Case No.484 of 2020 dated 17.11.2020 under Sections 448/323/506/34 of the Indian Penal Code and Section 10 of the Protection of Children from Sexual Offences Act, 2012, the petitioners have filed the present application.

Mr. Chakraborty, learned advocate appearing for the petitioners submits that the petitioners have been falsely implicated. The alleged incident occurred on 19th October, 2020. Thereafter, an application under Section 156(3) of the Code was filed on 5th November, 2020 and on the basis of an order passed in the same, FIR was registered on 17th November, 2020. There had been a longstanding land dispute between the families of the *de facto* complainant and the petitioners herein. The petitioner no.1 is the son of the petitioner no.2 and the allegations levelled against them are in the abstract and the materials would not disclose that

any overt act has been attributed to them. In the said conspectus, custodial interrogation of the petitioners is not necessary.

The learned advocate appearing for the State opposes the petitioners' prayer and draws our attention to the contents of the application under Section 156(3) of the Code and the statement of the victim girl, recorded under Section 164 of the Code.

We have perused the materials in the case diary. *Prima facie*, we do not find any ingredient of Section 10 of the POCSO Act against the petitioner no.2. As such, the prayer for anticipatory bail of the petitioner no.2 is allowed.

Accordingly, we direct that in the event of arrest the petitioner no.2, namely, **Haradhan Mondal**, shall be released on bail upon furnishing a bond of ₹10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the Arresting Officer and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

However, *prima facie*, we find materials disclosing direct involvement of the petitioner no.1 in the alleged offence . In view thereof, we are not inclined to exercise any discretion in his favour and the prayer for anticipatory bail of the petitioner no.1, namely, **Manoj Mondal**, is refused.

The application for anticipatory bail, being CRM 575 of 2021, is partly allowed.

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

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)

