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19-05-2021

Court 28

Partly
Allowed

**C.R.M. 642 of 2021
(Via Video Conference)**

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with A.J.C. Bose B Garden Police Station Case No. 204 of 2020 dated 04.12.2020 under sections 498A/406/354/120B of the Indian Penal Code and Sections 8 and 12 of the POCSO Act.

Ajmat Sardar @ Azmat Sardar & Ors.

Versus

State of West Bengal

Mr. S.B. Roy Chowdhury, Adv.

...for the petitioners.

Md. Anwar Hossain, Adv.

Mr. Pradipta Ganguly, Adv.

...for the State.

The learned Counsel for the petitioners submits that the victim has lodged the FIR after 14 years of marriage and has falsely implicated the father-in-law, mother-in-law and the married sister-in-law of the victim. It is submitted that FIR would show that the principal allegation is made against the brother-in-law and he was not granted bail. The learned Counsel for the petitioners has also submitted that the statement recorded under Section 164 of the Code of Criminal procedure directly implicates the brother-in-law only. However, the brother-in-law is not before us.

Further an order dated 12th January, 2021 passed by the coordinate Bench in CRM 322 of 2021 is produced before us to show that the husband of the de-facto complainant was released on bail.

The learned Counsel for the State, however, opposes the prayer for anticipatory bail. It is submitted on behalf of the State that the statement recorded under Section 164 of the Code of Criminal Procedure implicates the father-in-law and the brother-in-law and accordingly, the submission made on behalf of the petitioners are incorrect.

Considering materials available on record and the nature and extent of

involvement of the petitioner nos. 2 and 3 in the commission of alleged offence and bearing in mind the statement of the victim recorded under Section 164 of the Code of Criminal Procedure does not implicate the petitioner nos. 2 and 3, we are of the opinion that custodial interrogation of the petitioner nos. 2 and 3 is not required and they may be granted anticipatory bail.

Accordingly, we direct that in the event of arrest, the petitioner nos. 2 and 3, namely, Hasirunnesa and Shabnam Parveen shall be released on anticipatory bail upon furnishing a bond of Rs. 10,000/- (Rupees Ten Thousand only) each, 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. The petitioners shall cooperate with the investigation.

The application for anticipatory bail of the petitioner nos. 2 and 3 is allowed and the application for anticipatory bail of the petitioner no.1 is rejected.

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

(Suvra Ghosh, J.)

(Soumen Sen, J.)