

12.04.2021

**CRM 787 of 2021**

Court No.28

**(Via Video Conference)**

Item 290

sg

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Joypur Police Station Case No. 102 of 2020 dated 27.08.2020 under Sections 341/325/308/506/34 of the Indian Penal Code.

Anup Kumar Pusti @ Naba & Ors.

Versus

The State of West Bengal

Allowed

Mr. Sandip Chakraborty, Adv.

...for the State.

We find that an order dated 6<sup>th</sup> January, 2021 passed by the learned Sessions Judge, Howrah has been referred to an enclosure along with an application under Section 438 of the Code of Criminal Procedure.

The learned Sessions Judge has been pleased to observe that “when a warrant is pending against any accused, no relief of anticipatory bail can be granted” and the same has been quoted from a judgment of the Hon’ble Apex Court reported in 2012(8) SCC 730 in the matter of Lavesh vs. State (Nct of Delhi). We are afraid that paragraph 12 of the said judgment refers to only when a person has been declared as a absconder pursuant to an order of proclamation being issued and the same is not applicable when a warrant of arrest has been issued after submission of charge-sheet. The said observation and the conclusion arrived at by the learned Session Court is unsustainable in law and should be amenable accordingly in future. So far as the merits of the present case is concerned, we have invited the learned Advocate for the State to draw our attention regarding injuries which are appearing in the report which is enclosed in the case diary.

On appreciation of the same and the fact that charge-sheet has already been submitted, we are of the opinion that custodial detention of the petitioners may not

be warranted. Accordingly, the prayer for anticipatory bail is allowed.

Accordingly, we direct that in the event of arrest the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer subject to the condition laid down under Section 438(2) of the Code of Criminal Procedure. The petitioners shall meet with the Officer-in-Charge of Joypur Police Station once a week until further orders on and from 20<sup>th</sup> April, 2021.

With the aforesaid observation, the prayer for anticipatory bail is allowed.

CRM 787 of 2021 is, thus, disposed of.

All parties shall act on the server copy of the order.

**(Tirthankar Ghosh, J.)**

**(Soumen Sen, J.)**