

19.05.2021
SL No.45
Court No.28
(gc)

CRM 1359 of 2021
(Via video Conference)

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed in connection with Chanchal Police Station Case No.875 of 2019 dated 15.10.2019 under Sections 4/8/16/17 of the POCSO Act.

And

In the matter of : **Ejabul & Anr.**

- Petitioners

Mr. Kallol Mondal,
Mr. Souvik Das

... For the Petitioners.

Mr. Z.N. Khan,
Mr. Pradipta Ganguly,

... For the State.

It is submitted on behalf of the petitioners that there are case and counter case between the parties. Wife of the petitioner No.3 had lodged F.I.R. against the family members of the de facto complainant alleging an attempt to ravish her. In retaliation the present case has been lodged.

Learned Counsel appearing on behalf of the State opposes the prayer for anticipatory bail.

Mr. Kallol Mondal, learned Counsel appearing on behalf of the petitioners has drawn our attention to an order passed by a Coordinate Bench in **CRM 933 of 2020 (In the matter of: Abdul Hakim & Ors.) dated 27th January, 2020** and submitted that the persons similarly placed as that of the petitioners have been granted anticipatory bail by the Coordinate Bench. It is submitted

that Abdul Hakim, Yeasin and Esrail were the applicants in CRM 933 of 2020.

Learned Counsel for the State, however, submits that statement recorded under Section 164 of the Code of Criminal Procedure implicates all including the three persons who have been granted anticipatory bail by the Coordinate Bench.

Having considered the materials in the case diary and bearing in mind the nature of allegations in the light of the submission that there is pre-existing enmity between the parties and persons similarly placed as that of the present petitioners have been granted anticipatory bail by the Coordinate Bench on 27th January, 2020 and also having regard to the fact that the charge-sheet has already been filed on 15th August, 2020, we are of the opinion that the custodial interrogation of the petitioners is not necessary. Accordingly, the prayer for anticipatory bail is allowed.

Accordingly, we direct that in the event of arrest the petitioners, namely, **Ejabul** and **Mojafar @ Mojaffar**, shall be released on bail upon furnishing a bond of Rs.10,000/- 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 and on further condition that they shall meet the investigating officer once in a week until further orders.

This order of anticipatory bail will remain in force for a period of four weeks from date within which period, the petitioners shall pray for regular bail before the Jurisdictional Court. The

Jurisdictional Court shall consider the said application for bail independent of any observation made by us in this order.

The application for anticipatory bail, being CRM No.1359 of 2021 is, thus, disposed of.

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.)