

CRM No.1433 of 2021

Via video conference

04.06.21

(S.R.)

Sl.22

Ct.28

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Jagatballavpur** Police Station Case **No.196 of 2020** dated **17.11.2020** under Sections **366/323/325/354/506/34** of the Indian Penal Code and Section **8** of the POCSO Act;

And

In re: Sanatan Malik & Ors.

... petitioners.

Mr. Soumya Basu Roy Chowdhury

... for the petitioners.

Mr. S.G. Mukherji, PP

Mr. N. Ahmed

Md. Anwar Hossain

...for the State.

Mr. Chowdhury, learned advocate appearing for the petitioners submits that the petitioners have been falsely implicated. The petitioners are the close relatives of one Utpal Malik. In the complaint it has, *inter alia*, been stated that the victim girl went missing on and from 3rd January, 2020 and about 8 months thereafter the complaint was lodged. Prior thereto, the petitioner no.1 herein lodged a complaint on 18th September 2020 stating, *inter alia*, that he and his family members had been assaulted by the family members of the *de facto* complainant. He further informs this Court that during pendency of the present application, the principal accused, namely, Utpal Malik had already surrendered and is in custody.

Mr. Ahmed, learned advocate appearing for the State opposes the petitioners' prayer and draws our attention to the statement of the niece of the victim girl as recorded under Section 164 of the Code.

We have heard the learned advocates appearing for the respective parties and considered the materials in the case diary. It appears that after the petitioner no.1 lodged a complaint against the *de facto* complainant and his family members, the present case has been registered. The ingredients of Section 8 of the POCSO Act are not

attributable to the petitioners herein. Considering the nature of allegations and the extent of complicity of the petitioners in the alleged offence, we are of the opinion that custodial interrogation of the petitioners is not warranted in the facts and circumstances of the case.

Accordingly, we direct that in the event of arrest, the petitioners, namely, **1, Sanatan Malik, 2. Sanu Malik @ Amit Malik, 3. Shankar Malik, 4. Dhana Malik and 5. Srikanta Malik**, 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 a further condition that the petitioner nos.2 to 4 shall meet with the officer-in-charge of **Jagatballavpur** police station once a week on and from 10th June, 2021 until further orders.

It is also directed that the petitioners shall not intimidate the witnesses or tamper with the evidence in any manner whatsoever.

The petitioner shall also attend the learned trial court on all the dates, as specified for hearing.

In the event the petitioners fail to comply with the above directions, without justifiable cause, the trial court shall be at liberty to cancel their bail automatically without further reference to this Court.

Accordingly, the application for anticipatory bail being CRM No.1433 of 2021 is allowed.

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

(Shampa Sarkar, J.)

(Tapabrata Chakraborty, J.)