

16.08.2021

CRM 1514 of 2021

court no. : 28
Item no. : PB - 02
matter : 438
status : partly allowed
transcriber : nandy

In Re: An application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure filed on 05.02.2021 in connection with Kaliachak Police Station Case No. 274 of 2019 dated 05.05.2019 under Sections 498A/323/307/34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act. (G.R. Case No. 1816 of 2019)

and

In the matter of: **Israil Sk. & Ors.**

..... Petitioners

Mr. Mazhar Hossain Chowdhury, Advocate

..... for the Petitioners

Mr. Imran Ali, Advocate

Mr. Nirupam Dhali, Advocate

..... for the State

Petitioners seek anticipatory bail in connection with Kaliachak Police Station Case No. 274 of 2019 dated 05.05.2019 under Sections 498A/323/307/34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act.

The above-mentioned case has been initiated at the behest of the first wife of the petitioner no. 1. The second wife is also implicated in the instant case alleging her contribution to the commission of an offence along with her relatives. Admittedly the marriage was solemnized in the year 2012 and the incident of torture is vividly narrated by the complainant in her statement recorded under Section 161 of the Code of Criminal Procedure. The allegation against all appears to be omnibus except some specific role attributed to the conduct of the petitioner no. 1 i.e. the husband of the de facto complainant.

We have perused the medical documents annexed to the case diary. After considering the materials available from the record and the statement of the complainant recorded under Section 161 of the Code of Criminal Procedure and the specific role attributed to

the conduct of the petitioner no. 1, we are not inclined to grant the prayer for anticipatory bail, as it relates to petitioner no. 1.

Accordingly, the prayer for anticipatory bail in respect of **petitioner no. 1**, namely, **Israil Sk.**, is **rejected**.

We find no justification in custodial interrogation of the rest of the petitioners.

As such, the prayer for anticipatory bail is **allowed** in respect of petitioner nos. 2 to 5, namely, 2) **Jiaul Sk. @ Md. Jiaul Momin** 3) **Md. Arab Sk.** 4) **Fatema Bibi @ Fatma** and 5) **Asmaul Sk. @ Md. Ismail Sk..**

Accordingly, we direct that in the event of arrest, the petitioner nos. 2 to 5, namely, 2) **Jiaul Sk. @ Md. Jiaul Momin** 3) **Md. Arab Sk.** 4) **Fatema Bibi @ Fatma** and 5) **Asmaul Sk. @ Md. Ismail Sk.**, shall be released on bail upon furnishing a bond of Rs.10,000/- each (Rupees Ten thousand only), with two sureties of like amount each, 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 as and when required.

The application being **CRM 1514 of 2021** accordingly **disposed of**.

(Harish Tandon, J.)

(Bibek Chaudhuri, J.)