

14.06.2021
p.b.
SL No.15

CRM 1913 of 2021

In Re: An application for anticipatory bail under Sections
438 of the Code of Criminal Procedure.

And

In Re:- **Tushar Kanti Mondal & Ors.**

Mr. Souvik Mitter,
Mr. Suman Sengupta,
Mr. S. Chakraborty.

.....for the petitioners.

Mr. S. G. Mukherjee,
Mr. Sandip Chakraborty.

.....for the State.

Apprehending arrest in connection with
Titagarh Police Station Case No.61 of 2017 dated
January 23, 2021 under Sections 376/354B/354/34 of
the Indian Penal Code, the present application has been
preferred.

Mr. Mitter, learned advocate appearing for the
petitioners submits that the petitioner no.1 is the father
and the petitioner no.2 is the mother of the *de facto*
complainant and they are aged about 63 years and 52
years respectively. The petitioner no.3 is the brother of
the *de facto* complainant. They have all been falsely
implicated. The allegations levelled against them are
absolutely unfounded.

He submits that the *de facto* complainant was suffering from Hysteria since birth and she has a prominent history of Psychogenic and Somatogenic Convulsions which culminated into schizophrenia after she attained the age of puberty. In support of such contention, he has drawn our attention to several documents annexed to the application.

He further submits that the *de facto* complainant lodged a similar complaint in the year 2019 and on the basis of the same, Muchipara Police Station Case No.164 dated 10.08.2019 was registered under Sections 376/354A/ 354C/34 of the Indian Penal Code. In support of such contention, he has drawn our attention to the order dated 19th November, 2019 passed in the said case wherefrom it would appear that in the said case police report was submitted in final form declaring the case as 'mistake of fact'.

Mr. Chakraborty, learned advocate appearing for the State has drawn our attention to several documents in the case diary.

We have heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

It appears that the *de facto* complainant had long been suffering from several ailments. She had to be admitted to Lumbini Park Mental Hospital. A similar

complaint was lodged by the *de facto* complainant in the year 2019 in which final report was submitted. The petitioner nos.1 and 2 are aged persons and it is not likely that the said petitioners and the petitioner no.3 would interfere with the investigation or delay the trial by abscondence. In the said conspectus and considering the nature of allegations, we are of the opinion that the custodial interrogation of the petitioners is not warranted in the facts and circumstances of this case.

Accordingly, we direct that in the event of arrest, the petitioners namely, **Tushar Kanti Mondal, smriti Rekha Mondal and Ankan Mondal** shall be released on anticipatory 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.

Accordingly, the application for anticipatory bail being CRM No.1913 of 2021, is disposed of.

(Kausik Chanda, J.)

(Tapabrata Chakraborty, J.)