

04.08.2021

CRM 2019 of 2021

Court No.28
Item No.11
(Rejected)

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&
As

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Santipur P.S. Case No.437 of 2020 dated 05.10.2020 under Sections 498A/304B/34 of the Indian Penal Code.

And

In the matter of : **Usman Sk @ Osman Sk.**
...Petitioner

Ms. Sananda Bhattacharyya.
...For the Petitioner

Mr. Saswata Gopal Mukherjee, Id. P.P.,
Ms. Faria Hossain,
Ms. Sonali Das.
...For the State.

The petitioner has filed the instant application for bail under Section 439 of the Code of Criminal Procedure after being arrested in connection with Santipur P.S. Case No.437 of 2020 dated 05.10.2020 under Sections 498A/304B/34 of the Indian Penal Code.

The learned Advocate for the petitioner submits that similarly circumstanced co-accused viz., Sonali Babi had been granted anticipatory bail by this Court in C.R.M.10846 of 2020 on 9.3.2021 and, therefore, the petitioner who stands on the same footing should also be released on bail.

Our attention is drawn by the learned Advocate for the State to the statements of the witnesses recorded under Section 161 of the Code of Criminal Procedure disclosing the complicity of the petitioner to the alleged offence.

On perusal of the order dated 9.3.2021 passed in C.R.M.10846 of 2020, we find that the anticipatory bail application so far as it relates to Rafiyabibi Sekh @ Rofiya Bewa, the mother of the petitioner was rejected and whereas the anticipatory bail application

for Sonali Babi was allowed on the ground that she being a married lady and residing elsewhere. Therefore, no custodial interrogation of her is necessary.

We thus find parity with the mother of the petitioner as distinguished from the role of Sonali Babi to the commission of the alleged offence. Since the co-accused who stands on the same footing was not privileged with anticipatory bail, we do not think that the petitioner can claim parity with Sonali Babi.

After perusing the materials from the Case Diary, we do not think that it is a fit case where the petitioner should be enlarged on bail.

Accordingly, the prayer for bail of the petitioner is rejected.

The application for bail, being CRM 2019 of 2021, is thus **dismissed**.

(Harish Tandon, J)

(Bibek Chaudhuri, J.)