

08. 17.09.2021

Ct.32

Tanmoy

Allowed

C.R.M. 2564 of 2021

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on **10/03/2021** in connection with **Gangarampur Police Station Case No. 358/2020** dated **08/10/2020** under Sections **498A/304B/34** of the Indian Penal Code.

And

In the matter of: - **Aftab Chowdhury & Anr.**

...petitioners.

Mr. Rabilal Mitra, Ld. Sr. Adv.,
Mr. Rajit Lal Maitra

...for the petitioners.

Mr. S.G. Mukherji, Ld. P.P.,
Ms. Faria Hossain,
Mr. Aniket Mitra

...for the State.

The petitioners are the parents-in-law of the victim lady.

At the outset, learned State Advocate takes a point that this is the second application for anticipatory bail, the first having been rejected on December 15, 2020. The second application is not maintainable since no change of circumstance has been shown by the petitioners.

Learned Senior Advocate for the petitioners relies on a decision of the Hon'ble Supreme Court of India in the case of ***Ravindra Saxena – Versus – State of Rajasthan***, reported in **(2010) 1 SCC 684** and submits that an application for anticipatory bail can be entertained by the Court at any stage prior to the arrest of the petitioners.

We have considered the judgment. The Hon'ble Apex Court has observed that the provisions of Section 438 of the

Code of Criminal Procedure have to be liberally interpreted and at any stage prior to the petitioner being taken into custody, the petitioner can approach the Court for anticipatory bail. No restriction appears to have been put as regards the number of times that the petitioner can approach the Court for anticipatory bail. In the case before the Hon'ble Supreme Court, on the third application made by the petitioner, the High Court had refused to pass an order. However, the Hon'ble Supreme Court granted anticipatory bail to the petitioner.

In view of the aforesaid, we are of the opinion that this application is maintainable.

We have seen the material in the Case Diary. The main allegations are against the husband. The allegation against the petitioners is that they used to instigate the husband of the victim to torture the victim lady. The husband has been granted bail by the learned trial Court.

On an overall assessment of the material on record and the extent of possible complicity of the petitioners in the alleged offence and considering that charge-sheet has been submitted, we are of the view that immediate custodial interrogation of the petitioners may not be necessary so long as they co-operate with further investigation, if any.

Accordingly, in the event of arrest, the petitioners, *viz.*, **1. Aftab Chowdhury**, **2. Lilufa Chowdhury** 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 shall abide by the

conditions laid down in Section 438(2) of the Code of Criminal Procedure.

In case the petitioners fail to adhere to any of the conditions mentioned in Section 438(2) of the Code, the learned Court below shall be entitled to cancel the anticipatory bail without further reference to this Court.

The application being C.R.M. 2564 of 2021 is, accordingly, disposed of.

All parties shall act in terms of server copy of this order downloaded from the official website of this Court.

(Bivas Pattanayak, J.)

(Arijit Banerjee, J.)