

23.09.2021

Court No.28
Item No.175
(Rejected)

Saswata

CRM 2778 of 2021

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with Muthabari Police Station Case No. 443 of 2020 dated 21.12.2020 under Sections 302/34 of the Indian Penal Code (G.R.Case No. 5851 of 2020);

And

In the matter of : **Bikash Mondal & Ors.**

...Petitioners

Ms. Sujata Das

...For the Petitioners

Mr. Madhusudan Sur, Ld. APP

Mr. Manoranjan Mahata

...For the State.

Apprehending arrest in connection with Muthabari Police Station Case No. 443 of 2020 under Sections 302/34 of the Indian Penal Code, the petitioners have filed the instant application for anticipatory bail under Section 438 of the Code of Criminal Procedure.

The deceased was found hanging on a tree and identified by the people at the time of recovery by the police, but no case was registered under the aforesaid provisions. The sister of the deceased subsequently took out an application under Section 156(3) of the Code of Criminal Procedure, disclosing the ingredients and involvement of the petitioners. On the basis of the order, the FIR was registered after the gap of 7 months and 10 days and according to the learned Advocate for the State, the investigation is still going on.

It appears from the materials that the petitioner no.2, who is the wife of the petitioner no.1 allegedly called the deceased in an early hour and, thereafter, the petitioner was found hanging on a tree on the next day. Probably, the deceased allegedly meet with the petitioner no.2 lastly and for such reason, the case has been registered.

According to the learned Advocate for the petitioner, there is no reason and rhyme why they have been implicated with the aforesaid case and they are being chased by the police authorities and, therefore, entitled to the

benefit of anticipatory bail under Section 438 of the Code of Criminal Procedure.

The complaint further revealed that the petitioner no.2 has an extra marital affair with the deceased and she reported to have met the deceased lastly. The investigation is at the nebulous stage. The Plea that there was a delayed registration of the FIR, does not appear to us a ground to extend the benefit of Section 438 of the Code of Criminal Procedure on the narration of the facts as indicated hereinabove.

Accordingly, the prayer for anticipatory bail is **rejected** at this stage.

The application for anticipatory bail being CRM 2778 of 2021 is, thus, **dismissed**.

(Harish Tandon, J.)

(Bibek Chaudhuri, J.)