

06. 20.09.2021

Ct.32

Tanmoy

Allowed

C.R.M. 3322 of 2021

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on **12/04/2021** in connection with **Belgharia Police Station Case No. 108/2021** dated **12/02/2021** under Sections **323/354A/506** of the Indian Penal Code read with Section **12** of the POCSO Act, 2012 and Section **14** of the Child and Adolescent Labour (Prohibition and Regulations) Act, 1986. (Special Case No.18 of 2021).

And

In the matter of: - **Gopinath Ganguly & Anr.**

...petitioners.

Mr. Sekhar Kr. Basu, Ld. Sr. Adv.,
Mr. Sayan Mukherjee,
Ms. Madhumita Basak

...for the petitioners.

Mr. Neguive Ahmed, Ld. A.P.P.,
Ms. Trina Mitra,
Mr. N.P. Agarwala

...for the State.

The petitioners are father and son. The allegation against them is of criminal intimidation and sexual harassment of a 16 years old girl who was employed as a domestic help in their household to look after the children of the petitioner no.2.

The petitioners say that some cash and ornaments went missing from the household. The girl was questioned about such missing articles. On the same day, the girl's father lodged the present complaint. This is nothing but a counter-blast.

We have seen the statement of the victim girl recorded under Section 164 of the Code of Criminal Procedure as well as other statements of witnesses. There is no injury report.

The Prosecution says that the petitioners procured an affidavit from the victim girl's father to the effect that he was

withdrawing the complaint. Obviously, this was obtained by putting undue pressure on the victim girl's father. This amounts to tampering with evidence. Such an act shall not be repeated in future.

On an overall assessment of the material on record and given the fact that the petitioners are co-operating with the investigation by responding to the notice under Section 41A of the Code of Criminal Procedure, which is not in dispute, we are of the view that immediate custodial interrogation of the petitioners is not necessary so long as they continue to co-operate with the Investigating Officer.

Accordingly, in the event of arrest, the petitioners, *viz.*, **1. Gopinath Ganguly, 2. Rajesh Ganguly** 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. 3322 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.)