

**25.05.2021**

Sl. No. 42

Srimanta/

Suman

Ct. No. – 28

D/L

**CRM/3391/2021  
(Via Video Conference)**

In Re : An application for anticipatory bail under Section 438  
of the Code of Criminal Procedure, 1973.

**In the matter of : Golenur Bibi & Ors.**

... petitioners.

Mr. Sanjib Kumar Dan, Adv.

...for the petitioners.

Mrs. Saibal Bapuli, A.P.P.,  
Ms. Aroni Bhattacharyya, Adv.

...for the state.

Mr. Sujoy Sarkar, Adv.

...for the Intervenor.

Apprehending arrest the petitioners have filed the  
instant application.

At the outset we like to state that petitioner no. 1 is the  
wife, petitioner no. 2 is the brother-in-law, petitioner no. 3 is  
the sister-in-law and petitioner no. 4 is the son of the de facto  
complainant.

It is alleged by the petitioners that the de facto  
complainant used to work as a 'mason' in Dubai. From his  
place of work he used to send money to the Bank account of  
petitioner no. 3. Subsequently, he came to his native village  
and demanded the said money from the petitioners. They  
jointly refused to hand over the said money to the de facto  
complaint. The de facto complainant with broken heart went  
to Chennai and started his work. He also used to transfer his  
savings to the Bank account of petitioner no. 3 regularly. In  
this way the de facto complainant sent lakhs of rupees to the

Bank account of petitioner no. 3. Subsequently, the de facto complainant became ill and returned to his village. He demanded money but the petitioners refused to pay the same. It is also alleged that once the petitioner no. 4 went to his room and took away some money and gold ornaments from his almirah.

It is submitted by the Learned Advocate for the petitioners that the de facto complainant has made false allegations against them. No custodial interrogation is necessary in this case. Therefore, they should be granted the benefit of the anticipatory bail.

Learned Advocate for the de facto complainant, on the other hand, submits that the petitioners misappropriated huge amount of money and ornaments of the de facto complainant and if they are not taken to custody there is every reason that the said money may be siphoned out.

Learned Public Prosecutor-in-Charge, on the other hand, submits that from the memo of evidence and the course of investigation it does not transpire as to whether the de facto complainant actually sent money in the account of the petitioner no. 3 and, if so, what is the amount of such money. So, the learned Public Prosecutor-in-Charge has opposed the prayer for anticipatory bail in order to give opportunity to the investigating authority to ascertain and collect the said evidence during investigation.

Having heard the Learned Advocates for the petitioners, de facto complainant and the learned Public Prosecutor-in-Charge and on perusal of the memo of evidence, we are of the opinion that the petitioner no. 1 and petitioner no. 4

being the wife and the son have the right over the earnings and savings of the husband and father. At least from the memo of evidence it is not ascertained as to whether the de facto complainant actually sent money to the Bank account of petitioner no. 4 and, if so, the actual amount of such deposit.

Under this circumstances, we are of the view especially considering the relationship of the petitioners with the de facto complainant that the custodial interrogation of the petitioners is not necessary. Therefore, the petitioners are entitled to get the benefit of Section 438 of the Code of Criminal Procedure.

Accordingly, we direct that in the event of arrest, the petitioners, namely, **Golenur Bibi, Nursalim Mullick, Khasman Bibi, Samsuddin Sekh** 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. 3391 of 2021 is **disposed of**.

All Parties shall act on the server copies of this order duly downloaded from the official website of this Court.

**(Bibek Chaudhuri, J. )**

**(Tapabrata Chakraborty, J.)**