

15-02-2021
subha
Item no.9

IN THE HIGH COURT AT CALCUTTA
Criminal Miscellaneous Jurisdiction

C.R.M. No. 6090 of 2020
With
CRAN 2 of 2020

Mehul Kotecha & Anr.
-vs-
The State of West Bengal
(Via video-conference)

In Re: Apprehension of arrest under Section 438 of the Code of Criminal Procedure in connection with Hare Street Police Station Case No.53 of 2020 dated 26th February, 2020 under sections 498A/406/34/354/509/354A/504/506 IPC and read with Sections 3 and 4 of the Dowry Prohibition Act, 1961 and adding sections 465/467/468/471 of the Indian Penal Code(G.R. (S) Case No. 268 of 2020).

Mr. Syed Shamsher Ali
Mr. Arkadeb Bhattacharyya

...for the petitioners.

Mr. Swapan Banerjee
Ms. Purnima Ghosh

... for the State.

Mr. Phiroze Edulji
Mr. C. K. Jain
Mr. Siddhartha Lahiri
Ms. Aishwarya Chatterjee

....for the de facto complainant.

The learned advocate appearing for the petitioners submits that the petitioner no. 1 is the husband and the petitioner no. 2 is the father-in-law of the *de facto* complainant. They have been falsely implicated on the basis of a complaint lodged by the *de facto* complainant about seven years after the marriage was solemnized. The *de facto* complainant has left her matrimonial house in the year 2016 and a matrimonial suit preferred by the petitioner no.1 is pending. The allegations levelled against the petitioners are

unfounded and in the said conspectus, their custodial detention is not warranted.

He further submits that the petitioners have duly complied with the notice issued under Section 41A of the Code of Criminal Procedure and are cooperating with the investigating agency. The petitioners would abide by all the restraints and conditions that may be imposed by this Court for grant of anticipatory bail.

The learned advocate appearing for the State opposes the petitioners' prayer and submits that there are direct allegations against the petitioners and as such their custodial detention is necessary.

Records reveal that a matrimonial suit preferred by the petitioner no.1 is pending. From the complainant it appears that there had been a dispute between the petitioners and the *de facto* complainant since the date of marriage. It does not appear that all the alleged incidents, as recorded in the complaint, were contemporaneously reported to the police authorities. Considering the gravity of the offence, the nature of allegations and all the attending circumstances of the case, we are of the opinion that custodial detention of the petitioners is not warranted.

Accordingly, we allow the application for anticipatory bail and direct that in the event of arrest, the petitioners, namely, **Mehul Kotecha and Himanshu Kotecha** shall be released on bail upon furnishing a bond of Rs.20,000/- (Rupees twenty thousand only) each with two local sureties of like amount each, both of whom must be within the jurisdiction of Hare Street Police station, 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.

The petitioners shall reside within the jurisdiction of Ballygunge Police Station and shall hand over their passports to the Investigating Officer of the case within a week from date.

The case diary, as produced, is returned to Mr. Banerjee, learned advocate appearing for the State.

The application for anticipatory bail being CRM 6090 of 2020 along with CRAN 2 of 2020 is, accordingly, disposed of.

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

[Tirthankar Ghosh, J]

[Tapabrata Chakraborty, J]