

CRM No.4287 of 2021

Via video conference

30.11.21

(S.R.)

Sl.166

Ct.32

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Santipur** Police Station Case No.360 of 2021 dated 14/06/2021 under Sections 384/376/307/120B/34 of the Indian Penal Code;

And

In re: Samiran Biswas & Ors.

... petitioners.

Mr. Angshuman Chakraborty

Mr. S.S. Saha

... for the petitioners.

Mr. Avijit Ganguly

Mr. Sanjib Kumar Dan

...for the State.

The learned lawyer for the petitioners Mr. Chakraborty submitted that incriminating elements against the petitioners are not sufficient which demands favourable consideration of the bail. It is submitted by the learned lawyer for the petitioners that this is a false allegation without supported by any material document or evidence. Therefore, the allegations are not tenable and anticipatory bail should be allowed.

Per contra, the learned lawyer representing the State Mr. Ganguly submitted that in the statement of the victim girl recorded under Section 161 of the Code of Criminal procedure, she made serious allegation of rape against the present petitioner no.1. According to the learned lawyer representing the State, investigation is still pending and in view of serious allegation, anticipatory bail should not be granted.

We have perused the case diary. We are not able to find any medical document corroborating the allegation of rape although injury report shows physical assault. No statement of the victim girl is recorded under Section 164 of the Code of Criminal Procedure. Therefore, we are of the considered opinion that we should exercise our

discretion to allow anticipatory bail to the petitioner no.1. So far as the petitioner nos.2, 3 and 4 are concerned, we are not able to find any complicity or any allegation of overt act to the petitioner nos.2, 3 and 4. Therefore, the same discretion is exercised by us in respect of the petitioner nos.2, 3 and 4. In a nutshell, the petitioners are allowed anticipatory bail.

Accordingly, we direct that in the event of arrest the petitioners, namely, **1. Samiran Biswas, 2. Uday Biswas, 3. Malati Biswas and 4. Samar Dutta** 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 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 with a further direction that the petitioner no.1 shall visit the Investigating Officer once in a week on and from 6th December, 2021 till completion of investigation.

It is further directed that the petitioners shall not intimidate the witnesses or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioners fail to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel their bail without any further reference to this Court.

The application for anticipatory bail being CRM No.4287 of 2021 is, accordingly, disposed of.

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

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)

