

CRM No.4284 of 2021

Via video conference

30.11.21

(S.R.)

Sl.165

Ct.32

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Ultadanga** Police Station Case No.59 of 2021 dated 06/04/2021 under Sections 420/376/363 of the Indian Penal Code;

And

In re: Banani Dey @ Banani Bose

... petitioner.

Mr. Hiranmoy Debnath

Mr. Arnab Mukherjee

... for the petitioner.

Mr. P.K. Datta, APP

Mr. Subrato Roy

...for the State.

The learned lawyer for the petitioner Mr. Debnath submitted that both the *de facto* complainant as well as the present petitioner are living happily with the principal accused namely, Netai Bairagi, and they have no grudge against each other. It is further submitted that there is no strong allegation involving the present petitioner who is the first wife of the principal accused/husband.

Per contra, the learned lawyer representing the State Mr. Roy submitted that there are incriminating elements against the present petitioner contained in two statements recorded under Section 164 of the Code of Criminal Procedure made by the present petitioner as well as her daughter. According to the learned lawyer representing the State, investigation is still going on for which anticipatory bail should not be granted.

We have heard rival submissions. On perusal of the case diary and the statements recorded under Section 164, we find that incriminating elements are not so serious against the present petitioner who is the first wife of the husband.

We are of the considered opinion that custodial detention in this

case of the present petitioner is not necessary. Therefore, we are inclined to exercise our discretion and allow the present anticipatory bail application.

Accordingly, we direct that in the event of arrest the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- 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.

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

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

The application for anticipatory bail being CRM No.4284 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.)