

30.11.2021
Court No.32
rpan / **185**

C.R.M. 4487 of 2021

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure ;

And

In re: **Foroj Malitha @ Fojoir & Another**

- Petitioners

Mr. Prabir Majumder

....For the Petitioners.

Mr. Arijit Ganguly,

Mr. Sanjib Kumar Dan

....For the State.

Apprehending arrest in connection with Palashipara Police Station Case No. 130 of 2021 dated 19.04.2021 under Sections 448/323/325/328/307/34 of the Indian Penal Code, 1860 with added Section 306 of the Indian Penal Code, 1860, the present application has been preferred.

Mr. Majumder, learned advocate appearing for the petitioners submits that the victim took a loan of Rs.20,000/- from the petitioner no.1 on condition that he would refund the same within three months. In spite of expiry of the said period, the loan was not repaid and to avoid payment of the same, the petitioners have been falsely implicated. The allegations levelled against the petitioners are absolutely unfounded and that the victim had took loan amount from various persons in the locality. Upon completion of investigation charge sheet has also been submitted. In the said conspectus, custodial interrogation is not warranted.

Mr. Dan, learned advocate appearing for the State opposes the petitioners' prayer and draws our attention to several documents in the case diary, including the statements of the witnesses, as recorded under Section 161 of the Code and the post-mortem report.

Having heard the learned advocates and considering the materials in the case diary, the nature of allegations, the post-mortem report and the extent of complicity of the petitioners in the alleged offence, we are of the opinion that their custodial interrogation is not necessary.

Accordingly, we allow this application and direct that in the event of arrest the petitioners, namely, **Foroj Malitha @ Fojoir** and **Rakibot Malitha**, shall be released on bail upon furnishing a bond of ₹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.

It is further directed that the petitioners shall not tamper with the evidence and/or intimidate the witnesses. They shall also attend the learned Court below on all the dates, as specified for hearing.

In the event the petitioners fail to comply with the aforesaid directions, without any justifiable cause, the learned Trial Court shall be at liberty to cancel their bail, in accordance with law, without further reference to this Court.

The application for anticipatory bail, being CRM No. 4487 of 2021, is, thus, 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.)