

16.12.2021
Court No.32
Item No. 568
Krishnendu
Allowed (SM,J)

**C.R.M. 5449 of 2021
(Via Video Conference)**

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

And

In re: **Piltu Sarkar & Anr.**

Petitioners

Ms. Minoti Gomes

For the Petitioners

Mr. S.S. Imam

Ms. Sonali Bhar

For the State

Apprehending arrest in connection Santipur Police Station Case No. 560 of 2021 dated 04.07.2021 under sections 306/34 of the Indian Penal Code the instant application for anticipatory bail is filed by the present petitioners.

Learned lawyer for the petitioners, Ms. Minoti Gomes, submitted that there is no incriminating material and no complicity of the present petitioners in the alleged act of suicide of the victim. They are falsely implicated and, therefore, prays for anticipatory bail.

Per contra, learned lawyer representing the State, Mr. Imam, invited our attention to the post mortem report and the statements of the witnesses and submitted that incriminating elements are there against

the present petitioners inasmuch as positive evidence indicates direct instigation to commit suicide.

We have heard rival submissions and perused the case diary. Statements of the witnesses indicate that the present petitioners snatched away the mobile hand set from the victim and asked him to commit suicide. Whether these elements are sufficient to constitute an offence or not can be decided at the time of trial. Written complaint was filed on 4th July, 2021. Four months have elapsed. Investigation has progressed a lot. *Prima facie* the available materials do not indicate a direct complicity of the present petitioners to the alleged crime. We, therefore, are of the considered opinion that custodial detention of the present petitioners is not necessary and, hence, we are inclined to exercise our discretion and allow the instant anticipatory bail application to the petitioners.

Accordingly, we direct that in the event of arrest the petitioners, namely, **Piltu Sarkar and Susankar Sarkar alias Tabad** , shall be released on bail on 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 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 with further direction that till investigation is complete, they will meet the Investigating Officer once in a week.

It is further directed that the petitioners shall attend the learned court below on all the dates, as specified for hearing and 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.

With the aforesaid observations, the application for anticipatory bail, being CRM No. 5449 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.

(Sugato Majumdar, J)

(Tapabrata Chakraborty, J)