

CRM No.6055 of 2021

Via video conference

14.12.21

(S.R.)

Sl.209

Ct.32

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Contai** Police Station Case No.119 of 2021 dated 01/04/2021 under Sections 302/34 of the Indian Penal Code;

And

In re: Rajkumar Maity & Ors.

... petitioners.

Mr. Soumik Ganguli

... for the petitioners.

Mr. Madhusudan Sur, Ld. APP

Mr. Monoranjan Mahata

...for the State.

Mr. Ganguli, learned advocate appearing for the petitioners submits that the petitioners herein have been falsely implicated in the alleged incident. The possibility that the motorcycle met with an accident cannot be ruled out. No overt act has been attributed to the petitioners. He further submits that the complaint was lodged about four months after the alleged incident and the petitioners have been roped in on the basis of mere suspicion.

Mr. Sur, learned Additional Public Prosecutor appearing for the State opposes the petitioners' prayer and draws our attention to the statements of the witnesses and the accused persons, injury report and the post mortem report.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

Prima facie, there are incriminating materials against the petitioner no.3, namely, **Shibu Ojha** and as such, we are not inclined to exercise any discretion in his favour and his prayer for anticipatory bail is refused.

Upon cumulative assessment of the materials on record and the role of the petitioner nos.1 and 2, we are of the opinion that their

custodial interrogation is not warranted.

Accordingly, we direct that in the event of arrest the petitioner nos.1 and 2, namely, **1. Rajkumar Maity and 2. Rup Kumar Maity** will 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 nos.1 and 2 shall meet with the investigating officer once in a week on and from 20th December, 2021 till the investigation is over .

It is further directed that the petitioners shall not intimidate the witnesses or tamper with evidence in any manner whatsoever and shall attend the learned trial court on all the dates specified for hearing.

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.6055 of 2021 is partly allowed.

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.)