

10.12.2021
Court No.32
Item No. 209
Krishnendu
Allowed (SM,J)

**C.R.M. 6277 of 2021
(Via Video Conference)**

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed in connection with Sankrail Police Station Case No. 318 of 2021 dated 15.03.2021 under sections 341/325/354B/354C/506/34 of the Indian Penal Code read with section 12 of the Protection of Children from Sexual Offences Act ;

And

In re: **Naresh Kumar Gupta & Ors.**

Petitioners

Mr. Mrityunjay Chatterjee

For the Petitioners

Ms. Sonali Das

For the State

Apprehending arrest in connection with Sankrail Police Station Case No. 318 of 2021 dated 15.03.2021 under sections 341/325/354B/354C/506/34 of the Indian Penal Code read with section 12 of the Protection of Children from Sexual Offences Act, the present petition under section 438 of Code of Criminal Procedure is filed praying for anticipatory bail.

Learned lawyer for the petitioners, Mr. Mrityunjay Chatterjee, submitted that the whole allegation is counter-blast to another complaint lodged by the present petitioner no.1 against the family of the *de facto* complainant. After lapse of one month the *de facto* complainant falsely implicated the present petitioner no.1 and his family members and initiated a prosecution

as the instant one. It is further submitted by the learned lawyer that charge sheet has been filed. The present petitioner no.1 is a handicapped person with 80% disability. There is no chance of his absconding. It is further submitted that the alleged mobile handset has not been seized by the police. Custodial interrogation is not necessary as the investigation is over. Therefore, the present petitioners should be allowed anticipatory bail.

Per contra, the learned lawyer representing the State, Mrs. Sonali Das, submitted that there are incriminating elements against the present petitioners as comes out from the statement of the victim girl. Strong allegations are there against petitioner no.1 connecting him to the commission of the alleged crime directly and attributing overt act to him. She strongly opposed anticipatory bail, accordingly.

We have heard rival submissions and perused the case diary. It came to our knowledge that the present petitioner no.1 is a handicapped person although the major allegations are there against him. We have also perused the statement of the victim girl and the injury report. Mobile handset of the present petitioner no.1 has not been seized. However, we are of the considered opinion that when investigation is complete, custodial interrogation is not necessary and even if the present petitioners are arrested, no practical purpose will be

served therefor. Therefore, we are inclined to **allow** anticipatory bail.

Accordingly, the prayer for anticipatory bail is allowed and we direct that in the event of arrest the petitioners, namely, **1. Naresh Kumar Gupta, 2. Sunny Gupta @ Ankit Gupta** and **3. Puja Gupta @ Agnihotri Gupta**, 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 the further directions 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.

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. 6277 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)

