

10.11.2021

CRM 6791 of 2021

Court No.28
Item No.19
(ALLOWED)

Ab

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed on 04.10.2021 in connection with Nandakumar Police Station Case No. 361 of 2021 dated 29.08.2021 under Sections 498A/323/325/307/34 of the Indian Penal Code;

And

In the matter of : **Anima Jana and others.**

...Petitioners

Mr. Suman De.

...For the Petitioners

**Ms. Sukanya Bhattacharyya,
Mr. Mirza Fioz Ahmed Begg**

... For the State

The Advocate-on-record of the petitioners undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking, the application is taken up for hearing.

Apprehending arrest in connection with Nandakumar Police Station Case No. 361 of 2021 dated 29.08.2021 under Sections 498A/323/325/307/34 of the Indian Penal Code, the petitioners have filed the instant application for anticipatory bail under Section 438 of the Code of Criminal Procedure.

It is submitted by the learned Advocate for the petitioners that the petitioners being the in-laws of the defacto complainant have been falsely implicated in the instant case when they have no role to play in the alleged commission of offence. It is further submitted that because of the introduction of the charging Section, namely, Section 307 of the Indian Penal Code, the police is attempting to arrest them and, therefore, they are entitled to the benefit of Section 438 of the Code of Criminal Procedure.

Learned Advocate for the State opposes the prayer for

anticipatory bail. It is submitted that the alleged incident took place after ten years of marriage, which is vividly narrated by the defacto complainant in the complaint lodged at the police station as well as the statement recorded under Section 164 of the Code of Criminal Procedure.

After hearing the respective Counsels and on perusal of the materials available in the case diary including the medical papers, we do not find an iota of evidence relating to the burn injury. Furthermore, the husband of the victim lady had already been enlarged on bail by the trial court on the date of production. We do not find that the custodial interrogation of the petitioners is necessary.

Accordingly, we direct that in the event of arrest the petitioners shall 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 also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

The application for anticipatory bail being CRM 6791 of 2021 is, thus, **allowed**.

(Harish Tandon, J)

(Rabindranath Samanta, J.)