

02.12.2021
Court No.32
rpan / **510**

C.R.M. 6832 of 2021

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

And

In re: **Sovan Kar & Another**

- Petitioners

Md. Sabir Ahmed,
Mr. Apan Saha,
Ms. Tasnim Ahmed
....for the Petitioners.

Md. Anwar Hossain,
Ms. Shreyashi Biswas
....for the State.

Apprehending arrest in connection with Naihati Police Station Case No.49 of 2021 dated 07.02.2021 under Section 363 of the Indian Penal Code and adding Sections 323/324/365/366A/120B of the Indian Penal Code, 1860 and 4/6 of the Protection of Children from Sexual Offences Act, 2012 (in short, POCSO Act), the present application has been preferred.

Md. Ahmed, learned advocate appearing for the petitioners submits that the principal accused is one Surajit Kar. The petitioner no.1 is the brother and the petitioner no.2 is the mother of the principal accused. No overt act has been attributed to the petitioners and the provisions of the POCSO Act are not applicable to the petitioners herein. Upon completion of investigation charge sheet has also been submitted and as such, custodial interrogation is not warranted.

The learned advocate appearing for the State opposes the petitioners' prayer and draws our attention to several documents in the case diary, including the statement of the victim girl, as recorded under Section 164 of the Code of Criminal Procedure and the medical report.

We have heard the learned advocates and considered the materials in the case diary. *Prima facie*, the provisions of the POCSO Act are not applicable to the petitioners herein. The principal accused has already been enlarged on bail. Upon completion of investigation charge sheet has also been submitted. In the said conspectus and considering the extent of complicity of the petitioners in the alleged offence, we are of the opinion that custodial interrogation is not warranted.

Accordingly, we allow this application and direct that in the event of arrest the petitioners, namely, **Sovan Kar** and **Suparna Kar**, 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 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 they fail to comply with the aforesaid directions, without any justifiable cause, the learned Court below 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. 6832 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.)