

CRM 7667 of 2021
(via video conference)

Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure.

In the matter of : **Ali Hossain @ Sk. Israil @ Sk. Ali Hossain**
..... petitioners

Mr. Sourav Chatterjee
Mr. Aditya Tiwari

.....For the petitioners

Mr. Bidyut Kumar Roy
Ms. Sima Biswas

.....For the State

Apprehending arrest in connection with Manickchak Police Station Case No. 347 of 2021 dated 11.09.2021 under Sections 417/376/323/34 of the Indian Penal Code, the instant application for anticipatory bail is filed.

Mr. Chatterjee, learned lawyer representing the petitioners submitted that both the petitioners and the de facto complainant are adults. They have consensual relationship. Nothing is there to show that there was alleged offence or any rape committed at any point of time. Custodial detention in this case is not necessary. Therefore, anticipatory bail is prayed for.

Per contra, Mr. Roy, learned lawyer representing the State submitted that the statement of the victim girl is strongly incriminatory against the petitioners. Since the allegation is grave and serious, anticipatory bail is opposed to.

We have heard rival submissions and perused the case diary. The contents of the written complaint and the statement of the victim recorded under Section 164 of the Code of Criminal Procedure do not corroborate each other *prima facie*. Rather, there seems to be some contradictions in the tenor of the statements. There is no medical examination report. On perusal of the case diary and other materials, we are of the considered opinion that custodial detention of the present petitioners is not necessary.

Accordingly, we allow this application and direct that in the event of arrest the petitioners, namely, **Ali Hossain @ Sk. Israil @ Sk. Ali Hossain** and **Sk. Sariful @ Sariphul** 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 with further condition that the petitioners shall meet the Investigating Officer once in a week till investigation is pending.

It is further directed that the petitioners shall not tamper with the evidence and/or intimidate the witnesses. They shall also attend learned Court below on all the dates, as specified for hearing.

In the event the petitioners 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 7667 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.)