

12.03.2021

CRM 11073 of 2020

Court No. 02
Item No. 156
snandy

(anti-bail allowed)

In Re: An application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure filed on 22.12.2020 in connection with Hasnabad Police Station Case No. 124 of 2020 dated 14.02.2020 under Sections 447/323/325/307/354/379/427/506/34 of the Indian Penal Code.

and

In the matter of: **Amir Ali Gazi & Ors.**

..... Petitioners

Mr. Pawan Kumar Gupta, Advocate
Mr. Sultan Ahmed Mondal, Advocate
Ms. Sofia Nesia, Advocate
Mr. Santonu Sett, Advocate

.....for the Petitioners

Mr. S.S. Imam, Advocate
Mr. Aurobinda Manna, Advocate

..... for the State

Apprehending arrest in connection with Hasnabad Police Station Case No. 124 of 2020 dated 14.02.2020 under Sections 447/323/325/307/354/379/427/506/34 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 of the petitioners that the petitioners have been implicated in the instant case because of the civil dispute with the de facto complainant. It is further submitted that the aforesaid case has been registered on an application under Section 156(3) of the Code of Criminal Procedure and in fact, the investigation has been completed and the offence under Section 307 of the Indian Penal Code was not found by the Investigating Officer.

The learned Advocate for the State opposes the prayer for bail and submitted that the Investigating Officer did not find any element of offence under Section 307 of the IPC and charge-sheet has been filed under Section 448/323/325/506/34 of the Indian Penal Code.

After hearing the respective Counsel and upon perusal of the case diary, we do not find any medical document annexed thereto and the learned Advocate for the State was right in his submission that because of such fact the charge-sheet does not include Section 307 of the IPC.

However, upon further perusal of the statements of witnesses recorded under Section 161 of the Code of Criminal Procedure, we do not find that there is any necessity for custodial interrogation. That apart, charge-sheet has already been filed but charges have not been framed as yet.

Therefore, we are inclined to extend the privilege of the anticipatory bail under Section 438 of the Code of Criminal Procedure to the petitioners.

Accordingly, we direct that in the event of arrest, the petitioners, be released on bail upon furnishing a bond of Rs.10,000/- each (Rupees Ten thousand only), with two sureties of like amount each, to the satisfaction of the arresting officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 on further condition that the petitioner nos. 1, 2 and 3, namely, Amir Ali Gazi, Redulya Gazi @ Rehedull Gazi and Chattar Ali Gazi @ Chattar Gazi respectively, will meet the Officer-in-charge of the concerned police station once in every week. So far as petitioner nos. 4, 5 & 6 namely, Asma Bibi @ Achina Gazxi, Nargish Bibi @ Nargis Khatun Bibi and Amena Bibi, are concerned, such condition shall not apply to them.

However, all the petitioners shall remain present on each day when the matter is fixed before the concerned Court. Failure to appear on a solitary occasion without any justifiable cause may disentitle the petitioners from the immunity of Section 438 of Code of Criminal Procedure, extended to them, without any reference to this Court.

The application being **CRM 11073 of 2020** accordingly **disposed of**.

(Harish Tandon, J.)

(Kausik Chanda, J.)