

10.08.2021.
19.
As/Akd
(Allowed)

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL MISCELLANEOUS JURISDICTION**

**C.R.A.N.1 of 2021
In
C.R.M. 292 of 2021
(Via Video Conference)**

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Pradhannagar P.S. Case No.102 of 2020 dated 23.02.2020 under Sections 498A/302/34 of the Indian Penal Code and Sections 3 / 4 of the Dowry Prohibition Act.

In the matter of : Bani Banerjee & Ors. ... Petitioners.

Mr. Hillol Saha Poddar,
Ms. Arpita Saha.

.....for the Petitioners.

Mr. Tapan Bhattacharjee,
Mr. Aniruddha Biswas.

.....for the State.

Apprehending arrest in connection with Pradhannagar P.S. Case No.102 of 2020 dated 23.02.2020 under Sections 498A/302/34 of the Indian Penal Code and Sections 3 / 4 of the Dowry Prohibition Act, the petitioners have filed the instant application for anticipatory bail.

Learned Advocate for the petitioner submits that the petitioner No.3 was arrested during the pendency of the instant application and later on released on bail by the court below and, therefore, he is not pressing the instant application for the petitioner no.3.

Accordingly, the prayer for anticipatory bail of the petitioner no.3 is dismissed as not pressed.

However, he moves the application for anticipatory bail for the petitioner Nos.1 and 2 who happened to be the cousin

mother-in-law and brother-in-law of the victim lady who died of burn injury.

It is submitted by the learned Advocate appearing for the petitioner Nos.1 and 2 that the husband as well as the other co-accused has already been enlarged on bail and after the filing of the charge sheet, custodial interrogation of the petitioner Nos.1 and 2 is not necessary.

The State opposes the prayer for bail. It is submitted that the lady while admitted in the hospital had disclosed and narrated the incident and the role of the petitioner Nos.1 and 2 to the commission of an alleged offence can be seen therefrom. Admittedly, there is no dying declaration recorded by the lady and reliance have been placed upon her statement made before her father and mother who went to see her in the hospital.

After perusing the statements of the mother and father of the victim lady recorded under Section 161 of the Code of Criminal Procedure, we find that the principal accused is the husband and he had already been enlarged on bail by the trial court. Furthermore, charge sheet has already been submitted and, therefore, we do not find any justification in the custodial interrogation of the petitioner Nos.1 and 2.

Considering the above, the application for anticipatory bail is allowed.

Accordingly, we direct that in the event of arrest the petitioner Nos.1 and 2 viz., 1) Bani Banerjee and 2) Joy Banerjee @ Jay Banerjee shall be released on anticipatory bail upon furnishing a bond of Rs.10,000/- each, with two sureties of like amount each, one of whom must be local subject to the satisfaction of the arresting officer and on condition that they shall attend the trial court on every date of hearing until further orders and on further conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

In the event, the petitioner Nos.1 and 2 fail to do so without any justifiable cause, the trial court shall be at liberty to pass an appropriate order in accordance with law without any further reference to this Court.

This application for anticipatory bail is, thus, allowed.

The application for anticipatory bail, being CRM 292 of 2021 and application, being CRAN 1 of 2021, are thus disposed of.

(Harish Tandon, J.)

(Bibek Chaudhuri, J.)