

28.09.2021
Court No.01
Item No. 16
Allowed
Krishnendu

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

**C.R.M. 458 of 2021
With
C.R.A.N. 1 of 2021
(Via Video Conference)**

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

And

In Re : **Saheb Ali**

Petitioner

Mrs. Suman Sehanabis (Mandal)

For the Petitioner

Mr. Aditi Shankar Chakraborty, Id. A.P.P.

Mr. Biswarup Roy

For the State

Apprehending arrest in connection with Ghoshkadanga Police Station Case No. 262 of 2020 dated 28.10.2020 under sections 341/363/354/511/34 of the Indian Penal Code, 1860 read with section 8 of the Protection of Children from Sexual Offences Act, 2012, the petitioner has filed the present application.

The learned advocate appearing for the petitioner submits that the petitioner was not named in the F.I.R. The complaint was lodged two days after the alleged incident. No overt act has been attributed to the petitioner. The other co-accused persons have already been granted bail by the learned Court below. Upon completion of investigation, charge sheet has also been submitted and as such, custodial interrogation of the petitioner is not warranted.

The learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to the statements of the victim girl and her friend, as recorded under section 161 of the Code of Criminal Procedure.

Answering a query of this Court, Mr. Roy submits that the victim girl refused medical.

Having heard the learned advocates appearing for the respective parties and considering the materials in the case diary, the nature of accusations and the extent of complicity of the petitioner in the alleged offence, we are of the opinion that custodial interrogation of the petitioner is not necessary, more so when upon completion of investigation charge sheet has been submitted.

Accordingly, we allow this application and direct that in the event of arrest, the petitioner namely, **Saheb Ali**, shall be released on bail upon furnishing a bond of Rs.10,000/- 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 and on further condition that the petitioner shall reside outside the jurisdiction of Ghoshkadanga Police Station and shall also immediately intimate the address where he would be residing to the Officer-in- Charge of the concerned Police Station.

It is further directed that the petitioner shall not intimidate the witnesses and/or tamper with evidence in any manner

whatsoever. He shall appear before the learned Trial Court on all the dates as specified for hearing.

It is made clear that in the event the petitioner fails to comply with any of the aforesaid directions, without justifiable cause, the learned Court below shall be at liberty to cancel the petitioner's bail without any further reference to this Court.

The application for anticipatory bail, being C.R.M. 458 of 2021 and the connected application, being C.R.A.N. 1 of 2021 are disposed of accordingly.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Abhijit Gangopadhyay, J.) (Tapabrata Chakraborty, J.)