

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

27.09.2021

Court No.01
rpan / **34**

C.R.M. 558 of 2021

In Re:- An application for anticipatory bail under section 438
of the Code of Criminal Procedure;
with
CRAN 1 of 2021

And

In Re : **Majibar Rahaman @ Mojibar Rahaman & Others**
- Petitioners.

Mr. Hillol Saha Podder,
Ms. Arpita Saha
... for the petitioners.
Mr. Ujjwal Luksom,
Mr. Tapan Bhattacharjee
... for the State.

Apprehending arrest in connection with Tufanganj Police Station Case No.98 of 2021 dated 04.03.2021 under Sections 363/368/34 of the Indian Penal Code, adding Sections 6/18 of the Protection of Children from Sexual Offence Act, 2012, the petitioners have preferred the present application.

Ms. Saha, learned advocate appearing for the petitioners submits that the petitioner no.1 is the father, the petitioner no.2 is the mother and the petitioner no.3 is the cousin brother of the principal accused, namely, Nur Mohammad. They have been falsely implicated. No overt act has been attributed to them. The principal accused, being a juvenile, had already been granted bail by the principal magistrate, Juvenile Justice Board. Upon completion of investigation, charge-sheet has also been submitted and as such, custodial interrogation of the petitioners is not necessary.

Mr. Luksom, learned advocate appearing for the State opposes the petitioners' prayer and draws our attention to several documents in the case diary, including the statements of the parents of the victim girl, as recorded under Section 161 of the Code, the medical report and the statement of the victim girl, as recorded under Section 164 of the Code.

Prima facie, no overt act has been attributed to the petitioners herein. Considering the nature of accusations and the extent of their complicity in the alleged offence, we are of the opinion that custodial interrogation of the petitioners is not warranted in the facts and circumstances of the case, more so when, upon completion of investigation, charge-sheet has been submitted.

Accordingly, we direct that in the event of arrest, the petitioners, namely, **1. Majibar Rahaman @ Mojibar Rahaman, 2. Rupabana Bibi** and **3. Hafizur Rahaman** 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.

The application for anticipatory bail, being CRM 558 of 2021 and the connected application, being CRAN 1 of 2021 are, thus, allowed.

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.)