

19.06.2021

CRM 623 of 2021

Court No. 28
Item No. J1
nandy

(antibail allowed)

In Re: An application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure filed on 31.05.2021 in connection with Raiganj Police Station Case No. 20 of 2021 dated 16.01.2021 under Sections 498A/307 of the Indian Penal Code (G.R. Case No. 255 of 2021).

and

In the matter of: **Santana Roy**

..... Petitioner

Mr. Jaydeep Kanta Bhowmik, Advocate

.....for the Petitioner

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

Mr. Sourav Ganguly, Advocate

..... for the State

Learned Advocate appearing for the petitioner submits that the petitioner is the wife of the second brother-in-law of the victim lady and have been entangled in the instant case when she has no role to play in the commission of the alleged offence. It is further submitted that the petitioner is living in a separate house though in the same village and the husband of the petitioner has already been enlarged on bail by the Sessions Judge.

Learned Advocate appearing for the State opposes the prayer for bail. It is submitted that there is incriminating materials and direct evidence against the present petitioner which would be evident from the statement of the minor son of the deceased lady recorded under Section 164 of the Code of Criminal Procedure. The complicity of the petitioner to the alleged offence cannot be ruled out at this stage and, therefore, the prayer for anticipatory bail should be rejected.

There is no doubt that the victim lady succumbed to the burn injury, which is corroborated by various documents forming part of the case diary. The statement of the minor boy recorded under the aforesaid provision spoke about his relation with the petitioner and her husband in more domestic way of respecting and addressing them.

We had an occasion to peruse the dying declaration of the victim

lady recorded in the hospital before her death. We find a little bit disparity in both the versions and the link is required to be established at the time of trial. However, we cannot overlook the fact that the husband of the petitioner has already been enlarged on bail by the Sessions Judge though we have some reservations in this regard. Since the allegations appears to be omnibus and common to the petitioner and her husband who had already been enlarged on bail, we do not feel that custodial interrogation of the petitioner is at all necessary.

As such, the prayer for anticipatory bail is **allowed**.

Accordingly, we direct that in the event of arrest, the petitioners, shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, to the satisfaction of the arresting officer and subject to the following conditions:-

- i) The petitioner will make herself physically available as and when required by the Investigating Officer and shall cooperate with him during investigation.
- ii) Apart from the same the conditions enshrined under Section 438(2) of the Code of Criminal Procedure, 1973 shall also be strictly observed by the petitioner.
- iii) In default of adherence to any of the conditions enumerated herein-above, it is open to the arresting officer to take appropriate steps admissible under the law without further reference to this Court.

The application being **CRM 623 of 2021** accordingly **disposed of**.

(Harish Tandon, J.)

(Subhasis Dasgupta, J.)

