

14.07.2021

Court No.28
Item No.1
(PARTLY
ALLOWED)

akd
&
ab

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

(Via Video Conference)

CRM 691 of 2021

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with New Jalpaiguri Police Station Case No. 403 of 2021 dated 29.04.2021 under Sections 447/325/354/376D of the Indian Penal Code;

And

In the matter of : **Pacha Madak @ Sukeshwar Modak and another.**
...Petitioners

**Mr. Hillol Saha Poddar,
Ms. Arpita Saha.
...For the Petitioners**

**Mr. Saswata Gopal Mukherjee, Ld. PP,
Mr. N. Ahmed,
Mr. Rudradipta Nandy,
Ms. Anita Gaur,
Ms. Namrata Das.
...For the State.**

Apprehending arrest in connection with New Jalpaiguri Police Station Case No. 403 of 2021 under Sections 447/325/354/376D of the Indian Penal Code, the petitioner has filed the instant application for anticipatory bail under Section 438 of the Code of Criminal Procedure.

It is submitted by the learned Advocate for the petitioners that amidst the pendency of the instant application for anticipatory bail, the petitioner no. 1 has been arrested by the Investigating Officer and, therefore, the instant application has become infructuous so far as the petitioner no.1, namely, **Pacha Madak @ Sukeshwar Modak**, is concerned.

However, learned Advocate for the petitioners moves the application for anticipatory bail so far as the petitioner no. 2 is concerned. It is submitted that he has been falsely implicated in the

instant case and there is no incriminating material found against the petitioner no. 2.

On an earlier occasion, when this matter was moved, we directed the Investigating Officer to appear personally, as the case diary does not contain the medical documents of the victim lady.

Pursuant to the same, the Investigating Officer appears before us represented by the learned Public Prosecutor and produces the case diary, which contains the medical reports.

Learned Advocate for the State submits that the victim lady of sixty years of age was molested and also assaulted physically by the petitioners, which would be evident from her statement recorded under Section 161 and Section 164 of the Code of Criminal Procedure.

After hearing the respective submissions and on perusal of the statements of the victim lady recorded under Section 161 and Section 164 of the Code of Criminal Procedure as well as the medical reports annexed to the case diary, we do not find that custodial interrogation of the petitioner no. 2 is necessary.

Accordingly, we direct that in the event of arrest the petitioner no. 2, **Ratan Madak**, 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 subject to the condition that the petitioner no. 2 shall meet the Officer in-Charge of New Jalpaiguri Police Station once in a fortnight and shall also make himself available as and when required by the Investigating Officer and shall cooperate in the investigation. Apart from the aforesaid conditions, the conditions enshrined under Section 438(2) of the Code of Criminal Procedure, 1973 shall also be observed and followed by the petitioner no. 2.

The personal appearance of the Investigating Officer is hereby dispensed with.

CRM 691 of 2021 is, thus, ***disposed of***.

(Harish Tandon, J.)

(Subhasis Dasgupta, J.)