

05.08.2021

Court No.28
Item No. JB-11
nandy

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

(Via Video Conference)

CRM 728 of 2021

In Re:- An application for **Anticipatory Bail** under Section 438 of the Code of Criminal Procedure filed in connection with Dhupguri Police Station Case No. 460 of 2020 dated 02.12.2020 under Sections 498A/302/304B/34 of the Indian Penal Code. (G.R. Case No. 5235 of 2020);

and

In the matter of: **Amir Hossain & Ors.**

.....Petitioners

Ms. Jenia Rudra, Advocate

.....for the Petitioners

Mr. Sourav Ganguly, Advocate

.....for the State

The Advocate-on-record of the petitioners undertake to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking the application is taken up for hearing.

Apprehending arrest in connection with Dhupguri Police Station Case No. 460 of 2020 dated 02.12.2020 under Sections 498A/302/304B/34 of the Indian Penal Code, the petitioners have filed the instant application for anticipatory bail.

The instant application for anticipatory bail is filed at the instance of the father-in-law, mother-in-law and sister-in-law of the deceased.

Learned Advocate for the State opposes the prayer for bail. It is submitted that the statement of the eyewitnesses recorded under Section 164 of the Code of Criminal Procedure would disclose the complicity of the petitioners to the commission of the alleged offence.

After hearing the respective submissions and on perusal of the statement of the witnesses recorded under Section 164 of the Code of Criminal Procedure, it appears that at the time of alleged administration of poison, the husband was not present in the house and, therefore, the husband does not stand on the same footing that of the present petitioners.

In view of the aforesaid statement, the husband of the deceased cannot be said to be the principal accused. The statement would disclose direct involvement of the petitioners to the commission of the alleged offence and, therefore, we do not think it is a fit case where custodial interrogation of the petitioners would not be necessary.

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

The application for anticipatory bail being **CRM 728 of 2021** is thus **dismissed**.

(Harish Tandon, J.)

(Bibek Chaudhuri, J.)