

10.08.2021

Court No.28
Item No.JL-10
(ALLOWED)

Saswata

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

(Via Video Conference)

CRM 761 of 2021

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with Haldibari Police Station Case No. 98 of 2021 dated 26.05.2021 under Sections 363/365/34 of the Indian Penal Code;

And

In the matter of : **Ashim Kirtaniya & Anr.**

...Petitioners

Ms. Jeenia Rudra

... For the petitioner

Mr. Ujjal Luksom

Ms. Namrata Das

...For the State.

The Advocate-on-record of the petitioners undertakes 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 Haldibari Police Station Case No. 98 of 2021 under Sections 363/365/34 of the Indian Penal Code, the petitioners have filed the instant application for anticipatory bail under Section 438 of the Code of Criminal Procedure.

The petitioner no.1 and the victim had love affair with each other and on several occasions they have spent time together without the knowledge of their family members. The moment the discord became vetted, the present case was lodged against the petitioners.

We had the occasion to peruse the statement of the victim lady recorded under Section 164 of the Code of Criminal Procedure. We do not find any element of commission of an offence in the aforesaid Sections and, therefore, the custodial interrogation of the petitioners is not at all necessary.

The prayer for anticipatory bail of the petitioners is, thus, ***allowed.***

Accordingly, we direct that in the event of arrest, the petitioners,

namely, **Ashim Kirtaniya** and **Jayanta Kirtaniya** shall be released on bail upon furnishing a bond of `10,000/- (Rupees Ten Thousand only) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer and the petitioners shall meet the Investigating Officer once in a week and shall cooperate with the investigation process 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 761 of 2021 is, thus, ***disposed of.***

(Harish Tandon, J.)

(Bibek Chaudhuri, J.)