

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

01.10.2021
Court No.01
Item No.27
Avijit Mitra

CRM 952 of 2021 (Through Video Conference)

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

And

In Re: Sahibul Islam & ors.

...Petitioners

Ms. Papiya Chattopadhyay

...For the Petitioners

Mr. Kallol Acharjee,
Mr. Tapan Bhattacharjee

...For the State

Apprehending arrest in connection with Pundibari Police Station Case No.59 of 2021 dated 06.02.2021 under sections 498A/307/34 of the Indian Penal Code and added Section 304B of the Indian Penal Code, the present application has been preferred.

Ms. Chattopadhyay, learned advocate appearing for the petitioners submits that the petitioner nos.1 and 2 are the brothers-in-law of the victim lady and the petitioner no.3 is the mother-in-law, who is presently aged about 75 years. The allegations levelled are omnibus in nature. The principal accused being the husband of the deceased was arrested and has been released on bail by the learned Court below. In the said conspectus, custodial interrogation of the petitioners is not necessary.

Mr. Bhattacharjee, learned advocate appearing for the State submits that there are incriminating materials-on-record against the petitioners and the victim lady succumbed to her burn injuries one day after the alleged incident. Considering the gravity of the offence, the petitioners' prayer needs to be rejected since investigation is not yet complete.

We have heard the learned advocates appearing for the respective parties and considered the materials in the case diary. *Prima facie*, the culpability of the petitioner nos. 1 and 2 is explicit from the materials on record. Considering the gravity of the offence and the extent of complicity of the petitioner nos. 1 and 2 in the alleged offence, we are not inclined to exercise any discretion in favour of the petitioner nos. 1 and 2 and as such, their prayer for anticipatory bail is rejected.

However, the petitioner no.3 is an aged lady of 75 years and *prima facie*, there is no likelihood that she would flee from justice. In view thereof, custodial interrogation of the petitioner no.3 is not warranted in the facts and circumstances of the present case and the prayer for anticipatory bail of the petitioner no.3 is allowed.

Accordingly, we direct that in the event of arrest the petitioner no. 3, namely, **Aleya Bewa** shall be released on anticipatory 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 conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Accordingly, the application for anticipatory bail being C.R.M. No.952 of 2021 is partly 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.)

