

22.12.2021
SL No.33
Court No.1
(gc)

***Circuit Bench of Calcutta High Court
At Jalpaiguri***

**CRM 1227 of 2021
(Via video Conference)**

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed in connection with Kumargram Police Station Case No.83 of 2021 dated 01.05.2021 under Sections 417/376D/120B of the Indian Penal Code.

And

In the matter of : **Sri Aniruddha Basumata @ Anirudhya
Basumata & Anr.**

- Petitioners.

Mr. Arnab Saha,
Mr. Sudhindra Das,
... For the Petitioners.
Mr. Aditi Shankar Chakraborty, Ld. A.P.P.,
Mr. Aniruddha Biswas,
... For the State.

The learned Counsel for the petitioners submits that the petitioner No.1 is in relationship with the de-facto complainant/victim and on the basis of the materials available on record, it does not show that the petitioner No.1 has committed any offence. The learned Counsel for the petitioner has drawn our attention to the earlier order dated 14th June, 2021 in CRM 628 of 2021 in which the Coordinate Bench has rejected the application after taking into consideration the statement made by the complainant under Section 164 of the Cr.P.C. It is further submitted that before the Hon'ble Coordinate Bench, certain

documents could not be produced inasmuch as the de-facto complainant is willing to marry the petitioner No.1.

The learned Counsel for the State submits that in the statement of the victim complainant under Section 164 of the Cr.P.C. the name of the complainant appears but, however, in all fairness it is submitted that the complainant had accepted the relationship between the petitioner No.1 and the complainant. However, serious charges have been made against the petitioner No.2.

The learned Counsel for the petitioner in response to the aforesaid submission contended that ten documents have been sent to the investigating agency for verification to show that the petitioners are in no way involved in the commission of the alleged offence.

Considering the materials available in the case diary and having regard to the submissions made on behalf of the petitioners that the de-facto complainant has agreed to marry the petitioner No.1 and the police authorities are in the process of verifying the records furnished by the petitioners and also having regard to the fact that the charge-sheet has already been filed, we feel that custodial interrogation of the petitioners is not necessary.

Accordingly, we direct that in the event of arrest the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- each, 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, 1973 and with a further condition that the petitioners shall meet the I.O. once in a week until further orders and whenever their presence are required for further investigation taking into consideration the documents furnished by the petitioners without any fail and shall not enter the jurisdiction of Kumargram Police Station except for the purpose of meeting the Investigating Officer and/or attending the Court proceedings.

This order shall remain valid for six weeks from this date within which time, the petitioners shall surrender and obtain regular bail from the learned Additional Chief Judicial Magistrate at Alipurduar. In the event, the petitioners surrender and pray for bail, learned Additional Chief Judicial Magistrate at Alipurduar shall consider such application on his own merits without being influenced by any observations made by us in this order.

The application for anticipatory bail, being CRM No.1227 of 2021 is, thus, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Biswajit Basu, J.)

(Soumen Sen, J.)