

03.03. 2022

Court No.32
rpan / **211**

CRM (A) 153 of 2022

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

And

In Re.: **Hamidur Rahaman @ Mukter Ali @ Hamedur
Rahaman @ Bilka & Another**
- Petitioners

Mr. Avik Ghatak,
Mr. Fahad Imam
... for the Petitioners.

Ms. Faria Hossain,
Ms. Baisali Basu
... for the State.

Apprehending arrest in connection with Hemtabad Police Station Case No.207 of 2020 dated 22.10.2020 under Sections 498A/304B/34 of the Indian Penal Code, 1860, the petitioners have filed the present application.

Mr. Ghatak, learned advocate appearing for the petitioners submits that the petitioners are the parents-in-law of the victim. No specific overt act has been attributed to the petitioners. The allegation that the victim expired due to poisoning is also not corroborated by the FSL report. Upon completion of investigation charge sheet and supplementary charge sheet have already been filed and as such, custodial interrogation of the petitioners may not be necessary.

Ms. Basu, learned advocate appearing for the State opposes the petitioners' prayer and draws our attention to the statements of the witnesses as recorded under Sections 161 and 164 of the Code, the post-mortem report as well as the supplementary charge sheet.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

Prima facie, no specific overt act has also been attributed to the petitioners herein. In the post-mortem report it was *inter alia* observed that '*death was due to ingestion of poisonous substance*'. However, the report of FSL examination was that '*no poison could be detected in the viscera said to be of Owasefa Najim*'. Considering the nature of accusations, the possible extent of complicity of the petitioners in the alleged offence and since investigation is already complete, we are of the opinion that their custodial detention is not necessary.

Accordingly, we allow the application for anticipatory bail and direct that in the event of arrest, the petitioners, namely, **Hamidur Rahaman @ Mukter Ali @ Hamedur Rahaman @ Bilka** and **Meherun Begum @ Meherun Necha @ Meherun Nesha** shall be released on bail upon furnishing a bond of Rs.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 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

It is further directed that the petitioners shall attend the learned court below on all the dates specified for hearing and shall not tamper with the evidence and/or intimidate the witnesses in any manner whatsoever.

In the event the petitioners fail to comply with the aforesaid directions, without any justifiable cause, the learned court below

shall be at liberty to their bail, in accordance with law, without further reference to this Court.

The application for anticipatory bail, being CRM (A) 153 of 2022 is, thus, disposed of.

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

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)