

15.02. 2022

Court No.32
rpan / 40

CRM (A) 275 of 2022

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

And

In Re.: **Haralal Das & Another**

- Petitioners

Mr. Ayan Basu,
Mr. Gautam Banerjee,
Mr. Sandip Kr. Mondal
... for the Petitioners.

Mr. Binay Panda,
Mr. Subham Bhakat
... for the State.

Apprehending arrest in connection with Kultali Police Station Case No.391 dated 21.06.2019 under Sections 363/365/368 of the Indian Penal Code, 1860 [chargesheet submitted under Sections 363/365/368/376(2)(i) of the Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act], the petitioners have filed the present application.

Mr. Basu, learned advocate appearing for the petitioners submits that the petitioners are the parents of the principal accused, namely, Samir Das, who has already been arrested and is in custody. They have been falsely implicated. No specific overt act has been attributed to them. The ingredients of Section 376(2)(i) of the Indian Penal Code, 1860 and Section 6 of the POCSO Act are not attracted against them. In the said conspectus, they may be granted anticipatory bail.

Mr. Bhakat, learned advocate appearing for the State opposes the petitioners' prayer and draws our attention to the statement of

the victim girl as recorded under Section 164 of the Code as well as the contents of the complaints.

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

Prima facie, the ingredients of Section 376(2)(i) of the Indian Penal Code, 1860 and Section 6 of the POCSO Act are not attracted against the petitioners, who are the parents of the principal accused. No specific overt act pertaining to other allegations has been attributed to them. In view thereof, we are of the opinion that their custodial interrogation is not necessary, more so when, upon completion of investigation, charge sheet has been submitted and as *prima facie*, there is no possibility that they would flee from justice or delay the trial by abscondence.

Accordingly, we allow the application for anticipatory bail and direct that in the event of arrest, the petitioners, namely, **Haralal Das** and **Sarojini Das @ Saraswati Das** 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, 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 cancel their bail, in accordance with law, without further reference to this Court.

The application for anticipatory bail, being CRM (A) 275 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.)