

CRM (A) 331 of 2022
(via video conference)

Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure.

In the matter of : **Nibani Sardar**

..... petitioner

Mr. Kallol Mondal
Mr. Amanul Islam
Mr. Sourav Mukherjee
Mr. Souvik Das
Ms. Anamitro Banerjee

.....For the petitioner

Ms. Zareen N. Khan
Mr. Arup Sarkar

.....For the State

Apprehending arrest in connection with Tehatta Police Station Case No. 519/2021 dated 06.10.2021 under Sections 364/302/34 of the Indian Penal Code, the present application has been preferred.

Mr. Mondal, learned advocate appearing for the petitioner submits that the entire case is based upon circumstantial evidence. The petitioner has been roped in on the basis of mere suspicion. No specific overt act has been attributed to him. The petitioner is a female member of the family and there is also no possibility that she would flee from justice. Upon completion of investigation, charge sheet has been filed and as such, custodial interrogation of the petitioner may not be necessary.

The learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to the

statements of the witnesses, as recorded under Section 161 and 164 of the Code.

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

Prima facie, no specific overt act has been attributed to the petitioner. Her name also does not feature in the statement of the witnesses, as recorded under Section 164 of the Code. Considering the nature of accusations and the possible extent of complicity of the petitioner in the alleged offence, we are of the opinion that custodial interrogation is not necessary moreso when upon completion of investigation charge sheet has been submitted and *prima facie*, there is also no possibility that she would flee from justice or delay the trial by abscondence. In view thereof, her prayer for anticipatory bail is allowed.

Accordingly, we allow this application and direct that in the event of arrest the petitioner, namely, **Nibani Sardar** shall be released on 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, 1973.

It is further directed that the petitioner shall not tamper with the evidence and/or intimidate the witnesses.

She shall also attend learned Court below on all the dates, as specified for hearing.

In the event the petitioner fails to comply with the aforesaid directions, without any justifiable cause, the learned Court below shall be at liberty to cancel her bail, in accordance with law, without further reference to this Court.

The application for anticipatory bail, being CRM (A) 331 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.)