

CRM (A) 358 of 2022
(via video conference)

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

In the matter of : **Sk. Tajul & Anr.**

..... petitioners

Ms. Devi Priya Mitra

.....**For the petitioners**

Mr. Pratick Bose

.....**For the State**

Apprehending arrest in connection with Shyampur Police Station vide First Information Report Case No. 227 of 2021 dated 12.06.2021 under Sections 363/376(3)/506/34 of the Indian Penal Code read with Section 6 of the POCSO Act, the present application has been preferred.

Ms. Mitra, learned lawyer appearing for the petitioners submitted that the principal accused in this case is in custody. The present petitioners are the parents of the principal accused. Charge sheet has been filed. Custodial detention of the present petitioners are not necessary, particularly, when the principal accused is in custody. No incriminating elements are there showing complicity of the present petitioners in the alleged offence. Accordingly, she prayed for anticipatory bail on any stringent condition.

Per contra, Ms. Bose, learned lawyer appearing for the State strongly objected grant of anticipatory bail on the ground that the present petitioners are involved in the

alleged offence against the minor. Strong incriminating materials are there in the case diary against the present petitioners, which does not warrant grant of anticipatory bail. He, however, submitted that charge sheet has been filed.

We have heard the rival submissions and perused the case diary.

The statement of the victim girl recorded under Sections 161 and 164 of the Cr.P.C. mentioned that the present petitioners were instrumental to marriage only. There is no medical examination report of the victim girl as she refused medical examination as a result of which allegations are not fully corroborated by other particulars. Since charge sheet has been filed custodial detention for interrogation is not necessary. On perusal of the case diary and other material we are inclined to allow anticipatory bail.

Accordingly, we allow this application and direct that in the event of arrest the petitioners, namely, **Sk. Taju** and **Samina Begum** 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.

The application for anticipatory bail, being CRM (A) 358 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.)