

CRM (A) 378 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 Anesh @ Sekh Anesh** petitioner

Mr. Ayan Bhattacharyya
Mr. Sagar Saha
Mr. Sharequl Haque
Mr. Somdev Ash

.....For the petitioner

Mr. S. S. Imam
Mr. R. Jana

.....For the State

Apprehending arrest in connection with Harishchandrapur Police Station Case No. 929/2019 dated 31.12.2019 under Sections 498A, 304B, 34 of the Indian Penal Code, the present application has been preferred.

Mr. Bhattacharyya, learned advocate appearing for the petitioner is renewing his prayer on the strength of the Full Bench decision of this Court in the case of **“Sudip Sen Vs. State of West Bengal & Ors.”** reported in **(2010) 3 C Cr LR (Cal) 314**. The petitioner’s earlier prayer for bail was rejected by a co-ordinate Bench of this Court on 21st October, 2020. The petitioner married the victim lady in the year 2016 and were residing in Goa. The victim lady committed suicide and a UD Case was started at the Saligao

Police Station at Goa. An inquest report filed thereafter on 12th January, 2021, i.e., subsequent to rejection of the petitioner's prayer for anticipatory bail on 21st October, 2020. There had occurred a substantial change in the circumstances as it would be explicit from the inquest report wherein it has, *inter alia*, been observed that the petitioner cannot be held responsible for the suicide of the victim lady. The present case was initially registered under Section 498A of the Code and subsequently Section 304B was added and the said complaint was at the instance of the father of the *de facto* complainant, who was a party to the inquest. In the said conspectus, custodial detention of the petitioner, who is presently residing with the son at Malda, may not be necessary and he may be granted anticipatory bail.

Drawing our attention to several documents in the case diary, Mr. Imam, learned advocate appearing for the State submits that there are strong incriminating materials on record against the petitioner and as investigation is still continuing, the petitioner is not entitled to the relief, as prayed for.

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

In the inquest report, it has been observed that the petitioner is not responsible for the suicide of the victim lady. The inquest report was submitted on 12th January, 2021, i.e., subsequent to rejection of the petitioner's earlier prayer for

anticipatory bail. The change in circumstances, as would be explicit from the inquest report, has to be understood within the sweep of the Full Bench decision in *Sudip Sen* (supra) and in the said conspectus, we are of the opinion that custodial interrogation of the petitioner is not necessary.

Accordingly, we allow this application and direct that in the event of arrest the petitioner, namely, **Sk Anesh @ Sekh Anesh** 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 with a further condition that the petitioner shall meet with the investigating officer once a fortnight till investigation is complete.

It is further directed that the petitioner shall not tamper with the evidence and/or intimidate the witnesses. He 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 his bail, in accordance with law, without further reference to this Court.

The application for anticipatory bail, being CRM (A) 378 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.)