

CRM(A) No.388 of 2022

Via video conference

01.03.22

(S.R.)

Sl.17

Ct.32

Allowed

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Khargram** Police Station Case No.371 dated 20/11/2021 under Sections 448/325/326/307/34 of the Indian Penal Code;

And

In re: Samin Sk & Ors.

... petitioners.

Mrs. Shaila Afrin

Mr. Ashok Das

Mrs. Rafat Jahan

... for the petitioners.

Mr. Prasun Kumar Dutta, Ld. APP

Md. Kutub Uddin

...for the State.

Mr. Das, learned advocate appearing for the petitioners submits that the entire family has been roped in falsely. The complaint has been lodged as a counter blast to an earlier complaint lodged by the petitioners herein pertaining to the same incident. The petitioners were also injured in the said incident. The allegations are *omnibus* in nature and in the said conspectus, custodial interrogation may not be necessary.

Mr. Dutta, learned Additional Public Prosecutor appearing for the State opposes the petitioners' prayer and draws our attention to the statements of the witnesses and the injury report.

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

Prima facie, we find incriminating materials on record against the petitioner nos.1 to 4 and 8. Considering the nature of accusations levelled against them and the nature of injury, we are not inclined to exercise discretion in their favour. As such, their prayer for anticipatory bail is refused.

However, *prima facie*, no specific overt act has been attributed to the petitioner no.7. The petitioner nos.5 and 6 are also female family members and *prima facie*, there is no possibility that they would flee from justice. In view thereof, the prayer of the petitioner nos.5, 6 and 7 for anticipatory bail is allowed.

Accordingly, we direct that in the event of arrest the petitioners, namely, **5. Sejina Bibi, 6. Hasirun Bibi Khatoon** and **7. Haquesed Sk** will 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 with a further condition that the petitioners shall attend the learned court below on all the dates, as specified for hearing.

It is further directed that the petitioners shall not intimidate the witnesses or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioners fail to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel their bail without any further reference to this Court.

The application for anticipatory bail being CRM(A) No.388 of 2022 is, accordingly, 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.)