

01.03.2022
Item no.20
Court No.32
ss

C.R.M.(A) 396 of 2022

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

And

In Re : Momin Sk & anr.

.... Petitioners

Mr. Amanul Islam

Mr. Sourav Mukherjee

....for the petitioners

Ms. Faria Hossain

Ms. Baisali Basu

..... for the State

Apprehending arrest in connection with Palashipara Police Station Case No.466 of 2021 dated 23.12.2021 under Sections 325/326/307/436/34 of the Indian Penal Code, the present application has been preferred.

The learned advocate appearing for the petitioners submits that the petitioners have been falsely implicated in a family dispute. The petitioner no.1 is the son of the *de facto* complainant and the petitioner no.2 is the wife of the petitioner no.1. The allegations levelled are unfounded. In the said conspectus, the petitioners' custodial interrogation may not be necessary.

Learned Advocate appearing for the State opposes the petitioners' prayer and draws our attention to the statement of the witnesses as well as the injury report.

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

Prima facie, there are strong incriminating materials against the petitioner no.1 and in view thereof, we are not inclined to exercise any discretion in favour of the petitioner no.1. As such, the prayer for anticipatory bail of the petitioner no.1, namely, Momin Sk, is refused.

Considering the nature of accusations levelled against the petitioner no.2 and the possible extent of her complicity in the alleged offence, we are of the opinion that custodial interrogation of the petitioner no.2, namely, Khusbu Bibi @ Khusbu Mallick, is not necessary, more so when, she is a female family member and *prima facie*, there is no possibility that she would flee from justice or delay the trial by abscondence.

Accordingly, we direct that in the event of arrest, the petitioner no.2, namely, **Khusbu Bibi @ Khusbu Mallick**, shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only) 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 with further condition that the petitioner no.2 shall attend the learned trial court on all the dates, as specified for hearing.

The petitioner no.2 shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner no.2 fails to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel the bail of the petitioner no.2 without any further reference to this Court.

The application for anticipatory bail being C.R.M.(A) 396 of 2022 is 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.)