

CRM (A) 589 of 2022
(via video conference)

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

In the matter of : **Gurudas Sarkar & Anr.**

..... petitioners

Mr. Suman Das Adhikary

.....For the petitioners

Mr. Abhra Mukherjee

Mr. Goutam Banerjee

.....For the State

Mr. Shibaji Kumar Das

.....For the *de facto* complainant

Apprehending arrest in connection with Kalyani Police Station Case No. 16 of 2022 dated 19.01.2022 under Sections 376/417/120B of the Indian Penal Code, the present application has been preferred.

Mr. Das Adhikary, learned advocate appearing for the petitioners submits that the petitioners are the parents of the principal accused. They have been falsely implicated. The ingredients of Sections 376 and 417 of the Indian Penal Code are not attracted against them. In the said conspectus, their custodial interrogation may not be necessary.

Mr. Mukherjee, learned advocate appearing for the State opposes the petitioners' prayer and draws our attention to the statement of the victim, as recorded under Section 164 of the Code as well as the medical reports.

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

Whether the act of the petitioners, *per se*, would constitute the offence alleged, is an issue to be decided at the appropriate stage of the trial in accordance with law. Considering the nature of accusations and the possible extent of complicity of the petitioners in the alleged offence, we are of the opinion that custodial interrogation of the petitioners is not necessary.

Accordingly, we allow this application and direct that in the event of arrest the petitioners, namely, **Gurudas Sarkar** and **Amiya Sarkar** 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.

It is further directed that the petitioners shall not tamper with the evidence and/or intimidate the witnesses. They shall also attend learned Court below on all the dates, as specified for hearing.

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

The application for anticipatory bail, being CRM (A) 589 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.)