

CRM (A) 629 of 2022
(via video conference)

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

In the matter of : **Md. Jahiruddin & Anr.**

..... petitioners

Mr. Biswajit Tiwari
Sk. Salim

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

Md. Anwar Hossain
Ms. Sreyashee Biswas

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

Apprehending arrest in connection with Burdwan Women Police Station Case No. 05 of 2022 dated 07.01.2022 under Sections 376/506/120B of the Indian Penal Code and under Section 6 of the POCSO Act, the present application has been preferred.

Mr. Tiwari, learned advocate appearing for the petitioners submits that the petitioners are parents of the principal accused, who is in custody. The ingredients of Section 376 of the Indian Penal Code and Section 6 of the POCSO Act are not attracted to the petitioners. In the said conspectus, custodial interrogation of the petitioners may not be necessary.

Mr. Hossain, learned advocate appearing for the State opposes the petitioners' prayer and submits that investigation is still continuing. He has also drawn our attention to the statements of the witnesses and other documents in the case diary.

Heard the learned advocates appearing for the respective parties.

The records reveal that the principal accused is presently in custody. 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 is not necessary moreso when there is no possibility that they would delay the trial by abscondence.

Accordingly, we allow this application and direct that in the event of arrest the petitioners, namely, **Md. Jahiruddin** and **Rizwana Perween** 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 with a further condition that the petitioners shall cooperate with the investigation and the petitioner no. 1 shall meet with the investigating officer once a fortnight till investigation is complete.

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) 629 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.)