

07.03.2022

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Ct. No. 29

KAUSHIK

Allowed

C.R.M.(A) 1084 of 2022

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Arambagh** Police Station Case No. **770** of **2014** dated **08.08.2014** under Sections 498(A)/302/201/120(B)/34 of the Indian Penal Code, 1860 (Charge-sheet submitted under Sections 498(A)/304(B)/201/494/120(B) of the Indian Penal Code, 1860).

And

In Re : Sk. Mahidul Islam @ Sk. Maidul @ Mahidul Islam
..... petitioner

Mr. Niladri Sekhar Ghosh
Ms. Souparna Chatterjee
....for the petitioner

Mr. Prasun Kumar Dutta
Mr. Subroto Roy
....for the State

Petitioner seeks anticipatory bail.

Learned advocate appearing for the petitioner submits that, the petitioner is the brother of the first wife. The petitioner was not named in the First Information Report (FIR). The police filed charge-sheet in December, 2021 where the petitioner was named as an accused. Therefore, the petitioner is before Court. He submits that, another co-accused similarly placed was granted anticipatory bail in CRM 12255 of 2014 on September 12, 2014. Moreover, the provisions of Section 498A of the Indian Penal Code (IPC) are not attracted so far as the

petitioner is concerned in view of his relationship with the deceased. The police filed charge-sheet under Section 304B of the IPC. He refers to the post mortem report.

Learned advocate appearing for the State submits that, initially a missing person diary was lodged. Thereafter a decomposed body was recovered. The police started investigations. There are materials in the case diary to implicate the petitioner in the incident.

Considering the fact that the police filed charge-sheet and considering the fact that another co-accused was granted anticipatory bail by the Coordinate Bench, we grant anticipatory bail to the petitioner.

Accordingly, we direct that in the event of arrest the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of like amount each, to the satisfaction of the arresting officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on condition that the petitioner shall appear before the jurisdictional court on every date fixed and pray for regular bail within a period of four weeks from date.

In the event the petitioner fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel the bail of the petitioner without any further reference to this Court.

This application for anticipatory bail is, thus, allowed.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)