

CRM 4381 of 2021
(via video conference)

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

In the matter of : **Sudeep Ghosh**

..... petitioner

Mr. Amitabha Karmakar

.....For the petitioner

Mr. Sandip Chakraborty

.....For the State

Mr. Sabyasachi Mukherjee

Mr. Safiqul Islam

Mr. Dipankar Mondal

Mr. Mukesh Khanna

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

Apprehending arrest in connection with Ghatal Police Station Case No. 287/2019 dated 02.09.2019 under Sections 498A/323/307/325/406/34 of the Indian Penal Code, the present application has been preferred.

Records reveal that the petitioner's earlier prayer for anticipatory bail was rejected by an order dated 18th November, 2019. Such prayer has been renewed through the present application on the strength of the Full Bench decision of this Court delivered in the case of ***Sudip Sen Vs. The State of West Bengal & Ors.*** reported in (2010) 4 CHN 361.

Mr. Karmakar, learned advocate appearing for the petitioner submits that after dismissal of the earlier anticipatory bail application, the *streedhan articles* were seized and returned to the *de facto* complainant. Upon

completion of investigation, charge sheet was also submitted on 29th November, 2019. Thereafter, both the parties have also filed an application for mutual divorce being MAT Suit No. 63 of 2021 and the same is pending consideration.

Mr. Mukherjee, learned advocate appearing for the *de facto* complainant does not dispute the fact that *streedhan articles* have been returned and that the mutual divorce application is pending.

Mr. Chakraborty, learned advocate appearing for the State, however, submits that the present petition is not maintainable and the offences alleged are not compoundable. In view thereof, the petitioner is not entitled to the relief, as prayed for.

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

It appears that subsequent to rejection of the petitioner's prayer for bail, there had been substantial changes in the facts and circumstances of the case due to subsequent events inasmuch as the *streedhan articles* were seized and returned to the *de facto* complaint and a mutual divorce petition was filed by the parties. Such changes in the circumstances have to be understood within the sweep of the Full Bench decision in the case of Sudip Sen (*supra*).

In view thereof, we are of the opinion that custodial interrogation of the petitioner is not necessary.

Accordingly, we allow this application and direct that in the event of arrest the petitioner, namely, **Sudeep Ghosh** shall be released on bail upon furnishing a bond of Rs.10,000/-, 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 petitioner shall not tamper with the evidence and/or intimidate the witnesses. He shall also attend learned Court below on all the dates, as specified for hearing.

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

The application for anticipatory bail, being CRM 4381 of 2021, 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.)