

CRM No.5097 of 2021

Via video conference

17.02.22

(S.R.)

Sl.183

Ct.32

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **English Bazar Women** Police Station Case No.39 of 2018 dated 04/03/2018 under Sections 497/328/307/34 of the Indian Penal Code (G.R. Case No.828 of 2018);

And

In re: Pintu Majhi & Anr.

... petitioners.

Mr. Mazahar Hossain Chowdhury

Mr. M. Alam

... for the petitioners.

Mrs. Zareen N. Khan

Mr. Mirza Firoj Ahmed Begg

... for the State.

Mr. Chowdhury, learned advocate appearing for the petitioners submits that the petitioner no.2 is the wife of the *de facto* complainant and the petitioner no.1 is a co-villager. They have been falsely implicated. There is a matrimonial dispute between the petitioner no.2 and her husband. The daughter of the petitioner no.2 is residing along with her father. The complaint had been lodged near about two months after the alleged incident. There is also no explanation towards such delay. Upon completion of investigation charge sheet has already been submitted and as such, custodial interrogation may not be necessary.

Mr. Begg, learned advocate appearing for the State opposes the petitioners' prayer and draws our attention to several documents in the case diary.

It appears from the records that a Section 91 notice was issued to the *de facto* complainant with a direction to produce the medical papers of his daughter. Such direction has not been complied with. No statement under Section 164 has also been recorded. In the said conspectus and since upon completion of investigation charge sheet

has already been submitted, we are of the opinion that custodial interrogation of the petitioners is not necessary.

Accordingly, we direct that in the event of arrest the petitioners, namely, **1. Pintu Majhi** and **2. Shyama Sarkar** will 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 attend the learned trial court on all the dates as specified for hearing.

It is further directed that the petitioners shall not intimidate the witnesses or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioners fail to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel their bail without any further reference to this Court.

The application for anticipatory bail being CRM No.5097 of 2021 is, accordingly, 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.)