

04.01.2022
Item no. 246
Court No.32
Avijit Mitra

C.R.M. 7712 of 2021

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure;

And

In Re : Subir Kumar Biswas & ors.

.... petitioners

Mr. Atis Kumar Biswas,
Mr. Amit Singh

....for the petitioners

Md. Anwar Hossain,
Ms. Sreyashee Biswas

..... for the State

Apprehending arrest the instant application is filed in connection with Murutia Police Station Case No.196 of 2021 dated 16.09.2021 under Section 376 of the Indian Penal Code and under Section 6 of Protection of Children from Sexual Offences Act, 2012 adding Section 21 of Protection of Children from Sexual Offences Act, 2012 and Section 34 of Juvenile Justice Act, 2015 and under Sections 506/34 of the Indian Penal Code, praying for protection from custodial detention.

Mr. Biswas, learned lawyer representing the petitioners submitted, that the some of the co-accused are allowed anticipatory bail by a Coordinate Bench of this Hon'ble Court. The present petitioners have no complicity in the alleged offence, particularly, when the petitioner no.3 is the father of the victim. Chargesheet has been filed. Their custodial detention is not necessary. The principal accused is in custody. Therefore, anticipatory bail is prayed for.

Per contra, Mr. Hossain, learned lawyer representing the State submitted, that the case diary contains incriminating materials and sorrowed voice of the victim girl who underwent different torments and absence of protection from the *loco-parentis*. Petitioner no.3 is the father of the victim and petitioner no.1 is the uncle who failed to provide any protection to the victim girl. Accordingly, bail is opposed.

We have heard rival submissions and perused the case diary. It appears that chargesheet has been filed. The present petitioners are not the accused persons. The allegation against them is that they failed to provide any protection to the victim girl. Merely this fact, in our considered opinion, is not sufficient to warrant custodial detention, particularly when Chargesheet has been filed. Therefore, we are inclined to exercise our discretion and allow the anticipatory bail.

Accordingly, we direct that in the event of arrest, the petitioners, namely, **Subir Kumar Biswas, Sanjit Kumar Biswas and Prasenjit Biswas**, shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only) 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.

The petitioners shall attend the learned Trial Court on all the dates as specified for hearing.

The petitioners shall not intimidate the witnesses and/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 the petitioner's bail without any further reference to this Court.

The application for anticipatory bail being C.R.M. 7712 of 2021 is 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.)