

04.01.2022

Sl.No. 254

Ct.No. 32

Amalranjan

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION
APPELLATE SIDE**

(Via Video Conference)

CRM No. 7744 of 2021

Re: An application for anticipatory bail under Section 438 of
the Code of Criminal Procedure, 1973.

Allowed

In the matter of : Mahiruddin Sk. @ Mohim Sk.

..... Petitioner

Ms. Minoti Gomes

...for the Petitioner

Mr. Debabrata Chatterjee

Ms. Manisha Sharma

Ms. Mausumi Sarkar

...for the State

Apprehending arrest in connection with Beldanga
Police station Case No. 471 of 2020 dated 04.11.2020 under
Sections 448/376 of the Indian Penal Code, the petitioner has
filed the present application, praying for anticipatory bail.

Ms. Gomes, learned advocate appearing for the
petitioner submits that there is a long pending monetary
dispute between the husband of the victim and the petitioner.
To pressurise the petitioner to withdraw monetary claim the
petitioner is falsely implicated in the present case.
Chargesheet has already been filed; further custodial
detention is not necessary. Therefore, Ms. Gomes prays for
anticipatory bail for the petitioner.

Per contra, Mr. Chatterjee, learned advocate
appearing for the State submits that the statement of the

victim has been recorded under Section 164 of the Code of Criminal Procedure and the statement of the neighbours are strongly incriminatory against the petitioner. Inviting our attention to the statements of the witnesses as well as of the victim, Mr. Chatterjee strongly opposes the prayer for anticipatory bail. However, it is submitted that the chargesheet has been filed.

Having heard the rival submissions of the parties and after perusing the materials in the case diary, we find that the allegation against the present petitioner made by the victim, both in the written complaint as well as in the statement recorded under Section 164 Cr.P.C., implies physical assault, which is not corroborated by medical documents. We are not able to find enough corroborative material from the case diary against the allegation of assault or rape.

On perusal of the case diary and other materials on record and considering the fact that chargesheet has already been filed, we are of the opinion that custodial detention of the present petitioner is not necessary and therefore, the petitioner may be released on anticipatory bail.

Accordingly, we allow this application and direct that in the event of arrest the petitioner, namely, Mahiruddin Sk. @ Mohim Sk. shall be released on bail upon furnishing a bond of Rs. 10,000/- with two sureties of like amount, one of whom must be local, subject 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 the 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 case, 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 7744 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.)