

27.01.2022

Court No.32
rpan/249

C.R.M. 7845 of 2021

[Through Video Conferencing]

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed in connection with Kandi Police Station Case No.591 dated 09.11.2021 under Sections 498A/328/307/34 of the Indian Penal Code, 1860 read with Sections 3/4 of the Dowry Prohibition Act;

And

In re: **Nurfan Sk & 2 Others**

- Petitioners

Mr. Navanil De,
Mr. Rajeshwar Chakraborty
... for the Petitioners.
Mr. Swapan Banerjee,
Ms. Purnima Ghosh
... for the State.

Mr. De, learned advocate appearing for the petitioners, submits that during pendency of the present application, the petitioner no.1 has already been arrested. In view thereof, the application, so far as the petitioner no.1 is concerned, is dismissed as 'infructuous'.

He further submits that the petitioner nos.2 and 3 are the mother-in-law and the sister-in-law respectively of the victim lady. The ingredients of Section 307 of the Indian Penal Code are not attracted against them. They are the female family members and there is no possibility that they would flee from justice or delay the trial by abscondence. In view thereof, their custodial interrogation is not warranted.

Ms. Ghosh, learned advocate appearing for the State opposes the petitioners' prayer and draws our attention to the medical report and the statements of the witnesses.

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

Prima facie, it appears that the husband of the victim is the principal accused and specific overt act has been attributed to him. Considering the nature of accusations and the extent of complicity of the petitioner nos. 2 and 3 in the alleged offence, we are of the opinion that their custodial interrogation is not necessary, more so when, they are the female family members and *prima facie*, there is no possibility that they would flee from justice. In view thereof, their prayer for anticipatory bail is allowed.

Accordingly, in the event of arrest the petitioner nos.2 and 3 namely, **Mojida Bibi** and **Lilufa Bibi** shall 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 they shall cooperate with the investigation.

It is further directed that the petitioner nos. 2 and 3 shall attend the learned trial court on all the dates specified for hearing and shall not tamper with the evidence and/or intimidate the witnesses in any manner whatsoever.

It is made clear that in the event the petitioner nos.2 and 3 fail to comply with the aforesaid directions, without any justifiable cause, the learned trial court shall be at liberty to cancel their bail, in accordance with law, without further reference to this Court.

With the aforesaid observations, the application for anticipatory bail, being CRM No. 7845 of 2021 is partly allowed.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Krishna Rao, J.)

(Tapabrata Chakraborty, J.)