

20.01.2022
Ct. No. 32
Sl. No.256
sdas

C. R. M. 8060 of 2021
[via video conferencing]

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

And

In Re: *Dr. Shiuli Mukherjee*

... .. Petitioner

Mr. Sekhar Basu, Sr. Adv.
Mr. Kaushik Chatterjee
Mr. Tirthankar Roy

... .. for the petitioner

Mr. Kushal Pal
Mr. Somnath Ghoshal
Md. Salamuddin
Mr. Satyajit Senapati

..... for defacto complainant

Mr. Swapan Banerjee
Mr. Rudradipta Nandy
Mr. Subrata Roy

... .. for the State

Apprehending arrest in connection with Bally Police Station Case No. 254 of 2021 dated 02.11.2021 under Sections 304/34 of the Indian Penal Code, the present application has been preferred.

Mr. Basu, learned senior advocate appearing for the petitioner submits that the petitioner is a doctor and also runs a nursing home namely MFC Women And Child Care (in short, the said nursing home). She has been roped in on a purported plea that knowing fully well that one Sudipta Sardar is a fake doctor, she had allowed admission of the *de facto* complainant's daughter in the said nursing home as she was suffering from covid infection. Unfortunately, the patient had expired but the petitioner had no intention to

cause any death. She has responded to the Section 91 notice as issued and there is no possibility that she would flee from justice or delay the trial by abscondence. In the said conspectus, custodial interrogation is not warranted.

Mr. Pal, learned advocate appearing for the *de facto* complainant vehemently opposes the petitioner's prayer and submits that the daughter of the complainant was admitted under Sudipta Sardar as per the instruction of the petitioner. She had knowledge that Sudipta Sardar is a fake doctor and as such her culpability and involvement in the offence cannot be ruled out.

Mr. Banerjee, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to the statements of the witnesses, as recorded under Section 164 of the Code.

He further submits that investigation is still in progress and there are incriminating materials on record against the petitioner. Answering a query, Mr. Banerjee submits that Sudipta Sardar has already been arrested.

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

Every death is an unfortunate incident. However, such unfortunate incident may not always give rise to a criminal offence. *Prima facie*, we do not find any material to the effect that the petitioner had a guilty mind or any intention of causing death. It also does not appear that she admitted the victim under one Sudipta Sardar knowing that he is a fake doctor. The petitioner is a doctor and is residing along with her family at Bally, Howrah and as such, *prima facie*, there is also no possibility that she would flee from justice. In view thereof, we are of the opinion that her custodial interrogation is not necessary.

Accordingly, we allow this application and direct that in the event of arrest, the petitioner, namely, Dr. Shiuli Mukherjee 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 a local, to the satisfaction of the Arresting Officer and also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 with a further direction that the petitioner shall co-operate with the investigation and meet the investigating officer as and when called for.

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

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

The application for anticipatory bail, being CRM 8060 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.

(Ajoy Kumar Mukherjee, J.)

(Tapabrata Chakraborty, J.)