

11.01.2022
Ct. No. 32
Sl. No.24
akd

C. R. M. 8082 of 2021

[via video conferencing]

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

And

In Re: **Sk. Humayun & Anr.**

... .. Petitioners

Mr. Soupal Chatterjee

... .. for the petitioners

Mr. Narayan Prasad Agarwala

Mr. Pratick Bose

... .. for the State

Apprehending arrest in connection with Ratua Police Station Case No.545 of 2019 dated 13.10.2019 under Sections 448/325/315/376/511/34 of the Indian Penal Code, this application has been filed praying for anticipatory bail by two accused persons.

Mr. Chatterjee, learned advocate appearing for the petitioners, submitted that the petitioners are falsely implicated in the instant case. No incriminating materials are there, more so, when the allegation is only attempt to rape. Charge sheet has been filed. Therefore, custodial detention is not necessary. Accordingly, anticipatory bail may be allowed.

Per contra, Mr. Bose, learned advocate appearing for the State, submitted that there are incriminating elements against the present petitioners and at the instance of the present petitioners, there was termination of pregnancy earlier in the year 2018. He invited our attention to the statement of the victim recorded under Section 164 of Cr.P.C. and other statements of witnesses along with the medical report.

We have perused the case diary and heard the rival submissions. It is not an allegation of rape. The complaint was lodged

four months after the incident. On perusal of the case diary and other materials on record and considering the fact that charge sheet has been filed, we are of the considered opinion that custodial detention is not necessary in this case and the petitioners may be granted anticipatory bail.

Accordingly, we allow this application and direct that in the event of arrest, the petitioners, namely, **(1) Sk. Humayun & (2) Manu @ Manu Mia** 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 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 and on further condition that the petitioners shall not enter into the jurisdiction of Ratua Police Station until further orders.

It is further directed that the petitioners 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 petitioners fail to comply with the aforesaid directions without any justifiable cause, the learned court below would be at liberty to cancel their bail, in accordance with law, without any further reference to this court.

The application for anticipatory bail, being CRM 8082 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.)

