

13.01.2022
Item no. 06
Court No.32
Avijit Mitra

C.R.M. 8256 of 2021 (Through Video Conference)

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

And

In Re : Gopal Rabi Das & ors.

.... petitioners

Mr. Sourav Chatterjee

....for the petitioners

Mr. Debabrata Chatterjee,

Ms. Sonali Das

..... for the State

Apprehending arrest in connection with Chanchal Police Station Case No.513 of 2021 dated 29th June, 2021 under Sections 498A/325/307/313/34 of the Indian Penal Code read with Sections 3 and 4 of Dowry Act, the present application has been preferred.

On the prayer of Mr. Chatterjee, learned advocate appearing for the petitioners the present application so far as the petitioner no.2 is concerned is dismissed as infructuous since he has already been arrested.

Mr. Chatterjee further submits that all the petitioners have been falsely implicated. The Section 156(3) application was preferred by the *de facto* complainant about one year after the alleged incident and after she left her matrimonial house. There is no explanation as regards such delay. There was a matrimonial dispute between the petitioner no.1 and the victim and an application for restitution of conjugal rights filed by the petitioner no.1, is still pending. The ingredients of Section 313

are also not attracted against the petitioners. In the said conspectus custodial interrogation is not warranted.

Ms. Das, learned advocate appearing for the State opposes the petitioners' prayer and draws our attention to several documents including the medical report dated 16th July, 2021 issued by the doctor. In the said medical report, it has *inter alia* been stated that there was no specific injury of the foetus.

Having heard the learned advocates appearing for the respective parties and considering the materials in the case diary, the nature of accusations, the medical report and the extent of complicity of the petitioner nos.1, 3 and 4 in the alleged offence, we are of the opinion that their custodial interrogation is not warranted more so when, upon completion of investigation chargesheet has been submitted.

Accordingly, we direct that in the event of arrest, the petitioners namely, **Gopal Rabi Das, Uma Rabi Das and Sima Rabi Das** shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only) each with two sureties of like amount each, 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 petitioner nos.1, 3 and 4 shall attend the learned Trial Court on all the dates as specified for hearing.

The petitioner nos.1, 3 and 4 shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner nos.1, 3 and 4 fail to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel the bail of petitioner nos.1, 3 and 4 without any further reference to this Court.

The application for anticipatory bail being C.R.M. 8256 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.

(Md. Nizamuddin, J.)

(Tapabrata Chakraborty, J.)