

21.01.2022
Item no. 27
Court No.32
Dd

CRM 8728 of 2021 (Through Video Conferencing)

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

And

In Re : Bhabesh Chandra Barman & Anr.

.... petitioners

Mr. Atis Kr. Biswas,
Mr. Jakir Hossain,

....for the petitioners

Ms. Anasuya Sinha,
Mr. Pinak Kumar Mitra,

..... for the State

Mr. Ritam Chowdhury,
Mr. Ashis Agarwal

...for the *de facto* complainant

Apprehending arrest in connection with Nandakumar Police Station Case No. 468 dated 2021 dated 02.11.2021 under Sections 380 of the Indian Penal Code, the present application has been preferred.

Mr. Baiswas, learned advocate appearing for the petitioners submits that ingredients of Section 380 of the IPC are not attracted against the petitioners. The petitioner no. 1 was Pradhan of the concerned Panchayat, who resigned six months prior to the alleged incident. No specific overt act has been attributed to the petitioners and as such custodial interrogation is not necessary.

Mr. Chowdhury, learned advocate enters appearance on behalf of the *de facto* complainant and opposes the petitioners' prayer.

Ms. Sinha, learned advocate appearing for the State submits that investigation is still in progress. She, however, informs this Court that Section 41A notice has been complied with by the petitioner no. 2 and similar notice could not be delivered to the petitioner no. 1.

Having heard the learned advocates appearing for the respective parties and considering the materials in the case diary, the nature of accusations and the extent of complicity of the petitioners in the alleged offence, we are of the opinion that their custodial interrogation is not necessary. However, the petitioners have to extend all cooperation to the Investigating Agency.

Accordingly, we direct that in the event of arrest, the petitioners namely, **Bhabesh Chandra Barman** and **Nimai Samanta** 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 and with a further condition that the petitioners shall meet with the Investigating Officer once in a week till investigation is completed.

The petitioners shall attend the learned Trial Court on all the dates as specified for hearing.

The petitioners shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioners fails to comply with the aforesaid directions without any justifiable

cause, the learned trial court would be at liberty to cancel the petitioners' bail without any further reference to this Court.

The application for anticipatory bail being CRM 8728 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.

(Ajoy Kumar Mukherjee, J.) (Tapabrata Chakraborty, J.)