

CRM No.8824 of 2021

Via video conference

10.02.22

(S.R.)

Sl.199

Ct.32

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Nazat** Police Station Case No.250 of 2021 dated 29/10/2021 under Sections 498A/325/34 of the Indian Penal Code read with Section 4 of the Dowry Prohibition Act;

And

In re: Rajesh Adhikary @ Adhikari & Anr. ... petitioners.

Mr. Shibaji Kumar Das

Ms. Rupsa Sreemani

... for the petitioners.

Mr. Debabrata Chatterjee, APP

Ms. Debjani Sahu

...for the State.

Mr. Das, learned lawyer appearing for the petitioners submitted that the present petitioners are falsely implicated. There is no justification in custodial detention of the present petitioners who being the brothers-in-law are leaving at separate mess. The nature of allegations does not warrant custodial detention for interrogation. Therefore, he prays for anticipatory bail.

Per contra, Ms. Sahu, learned lawyer appearing for the State submitted that there are strong incriminating elements against the present petitioners. Inviting our attention to the injury report, she states that there are evidences of assault on the victim. She further stated that the principal accused, being the husband, is absconding. Therefore, she opposed the application for anticipatory bail.

We have heard rival submissions and perused the case diary, statements of the witnesses and the injury report. In our considered opinion, the materials available on record and the nature of allegation of the commission of alleged offence do not warrant custodial detention of the present petitioners. Therefore, we are inclined to allow the anticipatory bail to the present petitioners.

Accordingly, we direct that in the event of arrest the petitioners, namely, **1. Rajesh Adhikary @ Adhikari and 2. Babu Adhikary @ Adhikari** will 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 the petitioners shall attend the learned trial court on all the dates as specified for hearing.

It is further directed that the petitioners shall not intimidate the witnesses or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioners fail to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel their bail without any further reference to this Court.

The application for anticipatory bail being CRM No.8824 of 2021 is, accordingly, 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.)