

10.01.2022
Item no.25.
Court No.01.
S.De
(Allowed)

Circuit Bench of Calcutta High Court
at Jalpaiguri

(Via Video Conference)

CRM (A) No. 30 of 2022

In Re: An Application for Anticipatory Bail under Section 438 of the Code of Criminal Procedure in connection with Falakata Police Station Case No.576 of 2021 Dated 31.10.2021 under Sections 498A/323/376/511/307 of the Indian Penal Code.

And

In the matter of: Mantu Sarkar & Others.

.....Petitioners.

Mr. Hillol Saha Poddarfor the Petitioners.

Mr. Aditi Shankar Chakraborty, Ld. APP,
Mr. Biswarup Royfor the State.

The petitioner no.1 is the husband, the petitioner no.2 is the elder brother in-law, the petitioner no.3 is the wife of the elder brother in-law and the petitioner no. 4 is the husband of the married sister in-law of the victim lady. The allegation is that on a particular day in October 2020, immediately after the victim's marriage with the petitioner no.1, the petitioner no.2 attempted to rape the victim.

The petitioners say that the complaint is totally false. It is prompted by spite against the family members of the victim's matrimonial family. The complaint was lodged more than a year after the alleged incident.

The State strenuously opposes the prayer for anticipatory bail and says that investigation is yet to be completed.

We have seen the material in the case diary. The delay of more than a year in filing the complaint is inordinate and unexplained. There is no medical report. Prima facie, the statements of witnesses recorded under Section 161 of the Code of Criminal Procedure are not such as would specifically incriminate these petitioners.

On an overall assessment of the material in the case diary and the facts and circumstances of the case, although charge-sheet is yet to be submitted and investigation is in progress, we are of the view that immediate custodial interrogation of the petitioners may not be necessary so long as they co-operate with the Investigating Officer.

Accordingly, in the event of arrest, the petitioners, namely, **Mantu Sarkar, Ratan Sarkar, Kiran Bala Sarkar** and **Akhil Das @ Anil Das** 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 local, to the satisfaction of the arresting officer and shall abide by the conditions laid down in Section 438(2) of the Code of Criminal Procedure until further orders and on further condition that the petitioner nos. 1, 2 and 4 shall report to the Investigating Officer of the concerned police station once in a fortnight until further orders.

In case the petitioners fail to adhere to any of the conditions mentioned in Section 438(2) of the Code, the learned Court below shall be entitled to cancel the anticipatory bail without further reference to this Court.

The application for anticipatory bail being C.R.M.(A) No. 30 of 2022 is, thus, allowed.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Aniruddha Roy, J.)

(Arijit Banerjee, J.)