

12.
11-01-2022
(ct. no.01)
debajyoti
(partly
allowed)

CIRCUIT BENCH OF CALCUTTA HIGH COURT AT JALPAIGURI

(Via Video Conference)

CRM(A) 31 of 2022

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Alipurduar Women Police Station Case No.131 of 2021 dated 03-12-2021 under Section 6 of the Protection of Children from Sexual Offence Act, 2012 read with Sections 363/365/376(2)(n)/354/323/34 of the Indian Penal Code read with Section 9 of the Prohibition of Child Marriage Act, 2006.

- A n d -

In the matter of : Gouranga Ghosh & Ors.

.... Petitioners.

Mr. Arnab Saha

... For the Petitioners.

Mr. Aditi Shankar Chakraborty, learned APP,
Mr. Sagnik Shankar Sikdar

... For the State.

The prosecution case is that the victim girl, about 16 years of age, got married with the son of the petitioner nos.1 and 2. She started residing in the house of the petitioners. The petitioner no.3 is the sister of the person whom the victim married. He is in custody.

The petitioners say that they have no role to play in the alleged incident. They are innocent. In any event, they are fully prepared to cooperate with the Investigating Officer.

The State vehemently opposes the prayer for anticipatory bail.

We have seen the material in the Case Diary including the statement of the victim girl recorded under Section 164 of the Code of Criminal Procedure. She makes specific allegation against the petitioner no.1. Charge Sheet

has not been filed. Since investigation is in progress and is yet to be completed, we are not inclined to allow this application insofar as the petitioner no.1 is concerned. This application for anticipatory bail stands dismissed insofar as the petitioner no.1 is concerned.

Insofar as the petitioner nos.2 and 3 are concerned, *prima facie*, we do not find any such incriminating material against them as would persuade us to decline their prayer for anticipatory bail. The application is allowed insofar as the petitioner nos.2 and 3 are concerned.

Accordingly, in the event of arrest, the petitioner nos.2 and 3, respectively namely, **Smt. Sikharani Ghosh @ Sikha Ghosh** and **Payel Ghosh**, shall be released on bail upon furnishing bonds of Rs.10,000/- (Rupees Ten Thousand) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer and on further condition that the petitioner nos.2 and 3 shall abide by the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

In the event the petitioner nos.2 and 3 fail to adhere to any of the conditions stipulated in Section 438(2) of the Code of Criminal Procedure, the learned Court below will be at liberty to cancel the anticipatory bail without further reference of this Court.

The application for anticipatory bail being CRM(A) 31 of 2022 is, thus, **disposed of**.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Aniruddha Roy, J.)

(Arijit Banerjee, J.)