

15.
11-01-2022
(ct. no.01)
debajyoti
(partly
allowed)

CIRCUIT BENCH OF CALCUTTA HIGH COURT AT JALPAIGURI

(Via Video Conference)

CRM(A) 35 of 2022

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Haldibari Police Station Case No.239 of 2021 dated 06-10-2021 under Sections 363/365 of the Indian Penal Code read with Sections 08/18/16 of the POCSO Act.

- A n d -

In the matter of : Sukdev Sarkar & Anr.

.... Petitioners.

Mr. Subhasish Misra,
Mr. Swarup Das

... For the Petitioners.

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

... For the State.

The allegation is that the petitioner no.1 forcibly took away the victim girl, who was a minor, married her and kept her in confinement in the house of the petitioner no.2. The girl could somehow escape. It is alleged that the petitioner no.1 took photographs of the victim girl and posted the same in social media.

The State produces the Case Diary and vehemently opposes the prayer for anticipatory bail. The State says that the mobile phone with which the victim's photo was taken is still in the custody of the petitioner no.1 and the same is required to be seized.

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. *Prima facie*, the statement corroborates the prosecution case.

On an overall consideration of the facts and circumstances of the case and the material on record, we are of the view that in this case, custodial interrogation of the petitioner no.1 may be necessary. The application for anticipatory bail is dismissed insofar as the petitioner no.1 is concerned.

Insofar as the petitioner no.2 is concerned, *prima facie*, we do not find sufficient incriminating material against her. We are inclined to extend the privilege of anticipatory bail to her so long as she cooperates with the Investigating Officer.

Accordingly, in the event of arrest, the petitioner no.2, namely, **Asharani Mandal**, shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand), 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 no.2 shall abide by the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

In the event the petitioner no.2 fails 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) 35 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.)