

03.03.2022

COURT : 01
ITEM : 29
MATTER : 438
STATUS : ALLOWED
TRANSCRIBER : Saswata

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

CRM (A) 110 of 2022

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed in connection with Raiganj Police Station Case No. 542/2021 dated 09.12.2021 under Sections 363/365 of the Indian Penal Code.

And

In the matter of : **Shila Roy & Ors.**

...Petitioners

Mr. Jaydip Kanta Bhowmick

...for the Petitioners

Mr. Kallol Acharjee

Mr. Tapan Bhattacharya

...for the State

Apprehending arrest, the petitioners have filed the instant application for anticipatory bail in connection Raiganj Police Station Case No. 542/2021 dated 09.12.2021 under Sections 363/365 of the Indian Penal Code.

The petitioner nos. 1 and 2 are the neighbours of petitioner no. 3 and the petitioner no. 3 is the maternal aunt of the principal accused, namely, Souvik @ Max Yadav. FIR has been registered by the father of the victim lady alleging commission of offence under Sections 363 and 365 of the Indian Penal Code but subsequently, Section 6 of the POCSO Act has been inserted obviously on the basis of the statement of the victim girl who was found minor at the time of alleged commission of offence.

We have perused the statement of the victim girl recorded under Section 164 of the Code of Criminal Procedure and the nature of allegation against the present petitioners and furthermore, the present petitioners have not been named at the time of registration of the FIR. We, thus, do not find any justification in not extending the benefit of Section 438 of the Code of Criminal Procedure to the petitioners.

As such, the prayer for anticipatory bail is ***allowed***.

Accordingly, in the event of arrest the petitioners namely **Shila Roy, Mira Das & Khusbu Gowala** shall be released on bail upon furnishing a bond of Rs.10,000/- each, with two sureties like

amount each, one of whom must be local to the satisfaction of the arresting officer on further condition as enshrined under Section 438(2) of the Code of Criminal Procedure and on further condition that the petitioners shall meet the Investigating Officer as and when called for and cooperate and assist in the investigation which is still in progress.

The application being CRM (A) 110 of 2022 is accordingly disposed of.

(Harish Tandon, J)

(Rabindranath Samanta, J)