

11.07.2022.

Item No. 21

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*CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE*

C.R.M. (A) No. 337 of 2022

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 filed on 07.07.2022 in connection with Sitalkuchi Police Station Case No. 60 of 2022 dated 23.03.2022 under Sections 363/365/109 of the Indian Penal Code.

And

In the matter of: **Ayub Ali & Ors.** ...petitioners

Mr. Subhasish Misra,
Mr. Swarup Sen. ...For the petitioners

Mr. Kallol Acharjee,
Mr. Tapan Bhattacharjee.For the State

The application for anticipatory bail is canvassed on the ground that the petitioner no.2 and the victim girl, had a love affair and the victim girl is stated to have voluntarily left with the petitioner and stayed with him for more than a month.

It is also submitted that the elders of the villages sought to intervene to settle the disputes between the petitioners and the victim girl's family. It is further submitted that FIR came to be filed in the interregnum.

This Court notices that the petitioner no.2 has not co-operated with the investigation till date. However, given the nature of the allegations, the medical report and other documents available in the case diary, this Court is inclined to allow the application for anticipatory bail in

favour of the petitioner nos.1, 3, 4 and 5, namely, Ayub Ali, Marjina Bibi, Mahabbat Miya and Md. Khoka Miya.

It is directed that in the event of arrest, the petitioner nos.1, 3, 4 and 5, namely, Ayub Ali, Marjina Bibi, Mahabbat Miya and Md. Khoka Miya shall be released on bail to the satisfaction of the arresting officer upon furnishing Bond of Rs.5,000/- on condition that the order shall remain valid for a period of two weeks within which the petitioner nos.1, 3, 4 and 5 shall surrender before the court concerned for regular bail.

It is further directed that after release, the petitioner nos.1, 4 and 5, namely, Ayub Ali, Mahabbat Miya and Md. Khoka Miya shall meet the Investigating Officer of the case once in a week until further orders.

It is also directed that after release, the petitioner nos.1, 3, 4 and 5, namely, Ayub Ali, Marjina Bibi, Mahabbat Miya and Md. Khoka Miya shall attend the jurisdictional Court when the matter is fixed for hearing unless they are prevented by any reason beyond their control.

We make it clear that if the petitioners fail to make themselves available before the Trial Court, the Trial Court shall have the liberty to cancel the bail granted to the petitioner nos.1, 3, 4 and 5 and take them into custody without any further reference to this Court.

This order is subject to the conditions laid down in sub-section (2) of Section 438 of the Code of Criminal Procedure.

Considering the facts as aforesaid and the nature of the offence, the prayer of Maksedul Miya, the petitioner no.2, for anticipatory bail shall stand rejected at this stage.

The Case Diary be returned.

C.R.M. (A) No. 337 of 2022 is, thus, disposed of.

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

(Ananda Kumar Mukherjee, J.) (Rajasekhar Mantha, J.)