

31.03.2023

Serial no. 03

[Dd]

(Anticipatory Bail)

(**Partly Allowed**)

CRM (A) 1091 of 2023

In re : An Application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure in connection with **Domjur** Police Station Case No. **123** of **2023** dated **24.02.2023** under Sections **498A/304B/34** of the IPC and Sections **3/4** of Dowry Prohibition Act.

-And-

In the matter of : **Sk Amadullah @ Sk Amadulla & Ors.**

... .. Petitioners

Mr. Mrityunjoy Chatterjee,
Mr. Ravi Ranjan Kumar, Advocates
... .. *For the Petitioners*

Mr. Rudradipta Nandy, Id. APP
Mr. Pravas Bhattacharya,
Mr. M.F.A. Begg, Advocates
... ..*For the State*

Error on the face of record in the order dated March 28, 2023 be corrected.

Appearance for the petitioners be noted as 'Mr. Mrityunjoy Chatterjee, Mr. Ravi Ranjan Kumar'. All other appearances for the petitioner and the de facto complainant as noted in such order be deleted and be placed with the two persons named in the preceding sentence.

Report as called for from the District Magistrate by the order dated March 23, 2023 filed in Court be taken on record.

Reports were called for from the District Magistrate and the Commissioner of Police finding that, the case diary did not contain the postmortem report in respect of a police case dated February 24, 2023. Concern was expressed by the order dated March 23, 2023 as to why, postmortem

report of a deceased who died about a month ago could not be collected.

Court is informed, on behalf of the State that, necessary circulars will be issued both by the Commissioner of Police as also by the District Magistrate to the effect that, police will receive the postmortem report of the deceased in respect of a unnatural death case within seven days of the date of performance of the postmortem on the dead body. In default, appropriate steps would be taken as against the person who is found delinquent.

So far as the merits of the matter is concerned, the postmortem report of the victim suggests that there was one obliquely placed high up non-continuous ligature mark on the neck of the deceased. The possibility of the death being suicidal in nature cannot be ruled out at this stage.

Petitioner no. 1 is the husband and surrendered before the jurisdictional Court and is in custody.

The other petitioners are the in-laws of the victim.

We perused one of the statements recorded under Section 161 of the Criminal Procedure Code of a person claiming to be neighbour of the victim. It appears from such statement that such person heard about the torture allegedly meted out by the in-laws.

The contents of such statements apparently are hearsay in nature and, in any event, omnibus and general.

In such circumstances, we are inclined to grant anticipatory bail to the petitioner nos. 2 (Sk. Kader @ Sk Abdul Kader), petitioner no. 3, (Ajmira Begum), petitioner no. 4 (Sk Khadija @ Nazira Begum), petitioner no. 5 (Sk Bakir @ Sk Abdul Bakir Ali) and petitioner no. 6 (Kasmira Begum @ Kasmim Supiea).

Accordingly, we direct that in the event of arrest the petitioner nos. 2 (Sk. Kader @ Sk Abdul Kader), petitioner no. 3, (Ajmira Begum), petitioner no. 4 (Sk Khadija @ Nazira

Begum), petitioner no. 5 (Sk Bakir @ Sk Abdul Bakir Ali) and petitioner no. 6 (Kasmira Begum @ Kasmim Supiea) shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand Only) each, with two sureties of like amount each, to the satisfaction of the arresting officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioner nos. 2 and 5 shall report before the Investigating Officer once in a month till the conclusion of the investigation and petitioner no. 3, 4 and 6 shall cooperate with the investigation till its completion and on further condition that the petitioner nos. 2, 3, 4, 5 and 6 shall appear on every date before the jurisdictional Court on and from the date fixed for appearance of the accused and in default the jurisdictional Court will pass appropriate order to secure the presence of the petitioner nos. 2, 3, 4, 5 and 6 in Court including cancelling the anticipatory bail granted without further reference to this Court.

CRM (A) 1091 of 2023 is **dismissed as not pressed** so far as the petitioner. No. 1 (Sk Amadullah @ Sk Amadulla) is concerned.

Prayer for anticipatory bail of the petitioner nos. 2, 3, 4, 5 and 6 is **allowed**.

CRM (A) 1091 of 2023 is **disposed of**.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)