

19.07.2023
(M/L 166)
Ct. No.29
Allowed
(SKB)

CRM (A) 2565 of 2023

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure in G.R. Case No.256/23 corresponding to Madhyamgram P.S. Case No.52 of 2023 dated 27.01.2023 under Sections 420/406 of the Indian Penal Code.

In the matter of : Dipshikha Paul and another
... Petitioners

Mr. Amarta Ghose,
Mr. Amar Krishna Saha,
Mr. Souryadeep Ghosh,
Mr. Satyajit Senapati,
Ms. Poulami Chattopadhyay
... for the petitioners

Ms. Zareen N. Khan,
Mr. Arup Sarkar
... for the State

1. Heard the learned Counsel for the parties.
2. The husband of the present petitioner no.1 is stated to be the principal accused who is stated to have been released on regular bail.
3. There was continuous transaction between the informant and the principal accused. An agreement has been executed by them to the effect that the principal accused owes Rs.30 lacs to the informant and that amount shall be repaid to him in suitable instalments. In that agreement, the present petitioners who are wife and mother-in-law of the principal accused have stood as guarantors. The question is recovery of Rs.30 lacs by the informant from the principal accused and the present petitioners as guarantors who are jointly and severally liable.

4. We do not find any element of criminal offence under Sections 420/406 IPC at least, *prima facie*, in the entire transaction. Further the petitioners being ladies are entitled to the benefit of pre-arrest bail as, according to us, their custodial interrogation is not at all necessary as the agreement-in-question is stated to have been seized in the meantime.
5. Regard being had to such facts and submissions, factum of permanent residence of the petitioners, nature of allegation, nature of evidence and substantial progress in investigation, it is directed that each of the petitioner shall be released on bail by the Arresting Officer in the event of their arrest in the aforesaid P.S. case on such terms and conditions as deemed just and proper in the facts and circumstances of the case
6. Within 21 days from today petitioners are directed to appear before the I.O. along with a server copy or certified copy of this order.
7. Accordingly, the prayer for the anticipatory bail is allowed.
8. The application being CRM(A) 2565 of 2023 is disposed of.
9. The Arresting Officer is hereby directed to act upon the server copy of this order.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)