

07.08.2023
(D/L 55)
Ct. No.29
Partly Allowed
(SKB)

CRM (A) 2810 of 2023

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Manikchak P.S. Case No.421 of 2023 dated 12.06.2023 under Sections 363/365/34 of the Indian Penal Code and adding Section 4 of the POCSO Act.

In the matter of : Bubai Saha and others

... petitioners

Mr. Santanu Deb Roy,
Mr. D. Guha

... for the petitioners

Mr. Sujan Chatterjee

... for the State

1. Heard the learned Counsel for the parties.
2. The petitioner no.1 (Bubai Saha) is the principal accused. Petitioner nos.2 and 3 (Moti Saha and Parimal Saha) are the mother and elder brother of the petitioner no.1. From the statement of the victim recorded under Sections 161 and 164 Cr.P.C., we find that there is specific allegation of overt act against the petitioner no.1 but there is no such allegation of any kind against the petitioner nos.2 and 3.
3. In view of such fact, we are not inclined to exercise our discretion under Section 438 Cr.P.C. in favour of the petitioner no.1(Bubai Saha).
4. Accordingly, the prayer for anticipatory bail in respect of petitioner no.1(Bubai Saha) is rejected.

5. So far as petitioner nos.2 and 3 (Moti Saha and Parimal Saha) are concerned, they are directed to surrender before the learned Spl. Court (POCSO Act), Malda in the aforesaid P.S. case within 15 days from today. On their surrender and application for bail, they shall be released on bail by the aforesaid Court on such terms and conditions as deemed just and proper in the facts and circumstances of the case.
6. Accordingly, the prayer for the anticipatory bail is partly allowed.
7. The application being CRM(A) 2810 of 2023 is disposed of.
8. The learned court below is hereby directed to act upon the server copy of this order.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)