

CRM (A) 2876 of 2023

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on **06.07.2023** in connection with **Hariharpara** Police Station Case No.**491 of 2022** dated **23.10.2022** under Sections **498A/326/307/34** of the IPC with added Section **304B** of the IPC corresponding to GR Case No.**4636 of 2022**.

And

In Re: **Milon Mondal and Anr.**

... .. Petitioners.

Mr. Ali Ahasan Alamgir
Ms. Soma Mal
Ms. Rabia Khatun

... for the Petitioners.

Mr. Saswata Gopal Mukherji
Mr. Aniket Mitra
Ms. Jonaki Saha

... .. for the State.

1. Heard learned Counsel for both the parties.
2. The petitioners are brother-in-law and husband respectively of the deceased, who died on account of burn injury. There are two dying declarations on record. The deceased in her dying declaration has implicated the petitioner No.1, Milon Mondal, who is alleged to have set her afire.
3. So far as the prayer for anticipatory bail of the petitioner No.2, husband, is concerned, it is submitted by learned counsel for the petitioners and it is also forthcoming from the case diary that he was serving in Pune. Learned counsel for the petitioners submits that on the fateful day of occurrence, the petitioner No.2, husband, was also not present on the spot.

4. In view of such fact, we are not inclined to exercise our discretion under section 438 of the CrPC in favour of the petitioner No.1, Milon Mondal.

5. So far as petitioner No.2 (Lalan Mondal) is concerned, regard being had to the facts and submission, factum of permanent residence of the petitioner No.2, nature of allegation, nature of evidence and completion of investigation, it is directed that the petitioner No.2 shall surrender before learned Chief Judicial Magistrate, Murshidabad at Berhampore (in G.R. Case No.4636 of 2022) within 15 days from today. On his surrender and application for bail the petitioner No.2 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 in respect of petitioner No.1 is rejected and such prayer in respect of petitioner No.2 is allowed.

7. The application being **CRM (A) 2876 of 2023** is allowed in part.

8. Learned Chief Judicial Magistrate, Murshidabad at Berhampore is hereby directed to act upon the server copy of this order, if required.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)