

28.08.2023
ML. 519
Court No. 29
AB
(Partly
Allowed)

C.R.M. (A) 3340 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Chanchal** Police Station Case No. **864** of **2023** dated **14.07.2023** under Sections **498A/302/34** of the IPC.

And

In the matter of: **Mainura Bibi & Ors.**

....petitioners.

Mr. Ashok Das
Mr. Sourav Mukherjee
Ms. Sabnam Laskar

...for the petitioners.

Mr. Saswata Gopal Mukherjee
Mr. Partha Pratim Das
Ms. M. Roy

...for the State.

1. Heard learned Counsel for the parties.
2. Petitioner Nos. 1 and 2 are the mother and brother-in-law of the deceased who according to the Post Mortem report has died a homicidal death. There is allegation to the effect that present petitioner Nos. 1 and 2 along with husband and father-in-law of the deceased were staying in the same house where the deceased died. There is also allegation by the neighbour of the petitioner Nos. 1 and 2 to the effect that the aforesaid four co-accused persons i.e. husband, father-in-law, mother-in-law and brother-in-law of the deceased were continuously torturing the deceased. The case is based on circumstantial evidence.
3. Charge sheet has not yet been filed.
4. It is fairly submitted that there is no allegation of any overt act against the petitioner No. 3 and petitioner No. 4 who are the married sisters-in-law of the deceased. Petitioner No. 5 is the maternal uncle-in-law of the deceased.

5. Regard being had to the facts and submission, factum of permanent residence of the petitioners, nature of allegation and substantial progress in investigation, it is directed that each of the petitioner nos. 3, 4 and 5 shall be released on bail but taking into consideration the role of the present petitioner Nos. 1 and 2 we are not inclined to exercise our discretion in favour of them under Section 438 Cr.P.C.
6. Accordingly, the prayer for anticipatory bail in respect of petitioner Nos. 1 and 2 is rejected and such prayer in respect of petitioner Nos. 3, 4 and 5 is allowed.
7. Petitioner No. 3, Mamani Khatun, Petitioner No. 4, Rajiya Khatun and petitioner No. 5, Anesul Hoque @ Sekh Anesur each shall be released on bail by the Arresting Officer in the event of their arrest by the Arresting Officer in the aforesaid P.S. case on such terms and conditions as deemed just and proper in the facts and circumstances of the case.
8. The petitioner Nos. 3, 4 and 5 are directed to appear before the I.O. within 21 days from today along with a server copy or certified copy of this order.
9. Accordingly, the prayer for the anticipatory bail in respect of petitioner nos. 3, 4 and 5 is allowed.
10. The application being **CRM (A) 3340 of 2023** is disposed of.
11. The I.O. is hereby directed to act upon the server copy of this order, if required.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

