

28.08.2023
ML. 558
Court No. 29
Sourav
(Rejected)

C.R.M. (A) 3379 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Taltala** Police Station Case No. **92** of **2022** dated **10.07.2022** under Sections **498A/302/34** IPC.

And

In the matter of: **Munira Begum @ Monira Begum**

....petitioner.

Mr. Ayan Bhattacharjee
Mr. Aniruddha Bhattacharyya
Mr. Uttam Mukherjee

...for the petitioner.

Mr. Saswata Gopal Mukherji, Ld. PP
Mr. Aniket Mitra
Ms. Jonaki Saha

... for the State.

1. Heard learned Counsel for the parties.
2. The present petitioner who is the stepmother-in-law of the deceased has been named by the deceased in her dying declaration. Now it is settled law that dying declaration may not be made the basis of conviction if there are questionable evidence to doubt the same. Similarly, the dying declaration cannot be made the basis of conviction without any supportive materials obtained on record. But this is not the stage to embark upon detailed documentation of the materials on record.
3. It is submitted by learned Counsel for the petitioner that the bail of one of the co-accused persons named in the dying declaration was cancelled and that order has been taken before Hon'ble the Supreme Court wherein it has been ordered that the petitioner need not surrender on the next

date.

4. The aforesaid case pending before the Hon'ble Supreme Court, has, however no bearing so far as the present application for anticipatory bail by the stepmother-in-law is concerned.
5. Regard being had to the materials in the police papers and especially in the dying declaration, we are not inclined to exercise our discretion under Section 438 Cr.P.C. in favour of the petitioner.
6. Accordingly, the prayer for anticipatory bail is rejected.
7. The application being **CRM (A) 3379 of 2023** is dismissed.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

