

19.12.2023

ML. 107

Court No. 29

Suvayan

(Partly Allowed)

C.R.M. (A) 4862 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Chanchal** P.S. Case No. **117 of 2022** dated **05.02.2022** under Sections **498A/302/304B** IPC corresponding to G.R. Case No. **266 of 2022** pending before the learned ACJM, Chanchal, Malda.

And

In the matter of: **Hakimuddin & Ors.**

....petitioners.

Mr. Rana Mukherjee
Mr. Rhiddhiman Mukherjee

...for the petitioners.

Mr. Partha Pratim Das
Mr. Aniket Mitra

...for the State.

1. Heard learned Counsel for both the parties.
2. At the outset learned Counsel for the petitioners does not want to press this application for anticipatory bail in respect of petitioner No. 3, Kainath Khatun on the ground that she has been arrested.
3. Accordingly, the present petition in respect of petitioner No. 3, Kainath Khatun is dismissed as not pressed.
4. So far as petitioner No. 1 (Hakimuddin) and petitioner No. 2 (Taslina Bibi) are concerned they are father-in-law and mother-in-law respectively of the deceased.
5. The investigation was initiated for offence under Sections 498A/302/304B IPC. Charge-sheet has been filed under Sections 498A/304B IPC. Suicidal death of the deceased is an admitted fact at the bar. This is a second application for anticipatory bail after rejection of the first one on 30.03.2022 in CRM (A) 1441 of 2022. Charge-sheet for lessor offence is

obviously a supervening circumstance warranting reconsideration of the prayer of anticipatory bail.

6. Considered the materials placed by learned Counsel for the State including statement of the neighbors recorded under Section 161 Cr.P.C. No doubt, there is allegation of torture and harassment by the petitioner Nos. 1 and 2 to the deceased before her death but whether that action comes within the purview of Section 304B IPC is a matter to be decided by trial court on scrutiny of evidence. In our considered view, those allegations are *prima facie* at the fringe.
7. Charge-sheet having already been filed. There is also no scope of custodial interrogation of the present petitioner Nos. 1 and 2.
8. Regard being had to facts and submissions, factum of permanent residence of the petitioner Nos. 1 and 2, nature of allegation, nature of evidence and completion of investigation, it is directed that the petitioner Nos. 1 and 2 shall surrender before the learned Additional Chief Judicial Magistrate, Chanchal, Malda within 15 days from today in the G.R. case No. 266 of 2022 arising out of aforesaid P.S. case.
9. On their appearance and application for bail the petitioner Nos. 1 and 2 shall be released on bail on such terms and conditions as deemed just and proper in the facts and circumstances of the case.
10. The learned ACJM, Chanchal, Malda is directed to act upon the server copy of this order, if required.
11. Accordingly, the prayer for the anticipatory bail is partly allowed.

12. The application being **CRM (A) 4862 of 2023** is disposed of.

(Chitta Ranjan Dash, J.)

(Ajay Kumar Gupta, J.)

