

26.02.2024

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Ct. No. 29

S.D.

P.Allowed

C.R.M.(A) 641 of 2024

In Re:- In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Sagardighi** Police Station Case No. **570 of 2023** dated **28.10.2023** under Sections **498A/302/304B/201/34** of the Indian Penal Code.

And

In Re : **Bikas Mal @ Bikash Mal & Ors.**

..... petitioners

Md. Golam Nure Imrohi

...for the petitioners

S.K. Abdus Salam

Mr. M.S. Islam

...for the defacto-complainant

Mr. N. ahmed

Mr. Arindam Sen

...for the State

Petitioners pray for anticipatory bail.

Learned advocate appearing for the petitioners submits that the petitioner no. 3 is a married sister-in-law and was not present at the place of occurrence.

Learned advocate appearing for the State draws the attention of the Court to the materials in the case diary including post mortem report of the victim and a statement of a neighbour recorded a statement under Section 161 of the Cr.P.C.

Learned advocate appearing for the defacto-complainant submits that the victim was murdered within four years of marriage.

We perused the materials in the case diary. There is a post mortem report of the victim which notes that there are marks of abrasion on the neck of the victim.

Apparently, there is an issue of consumption of poison by the victim.

Police filed charge sheet *inter alia* under Section 304B of the Indian Penal Code, 1860.

A neighbour who rushed to the place of occurrence upon hearing a commotion and found the victim, does not place the petitioner no. 3 at the place and time of occurrence.

Petitioner nos. 1 and 2 apparently shared the same mess as that of the victim.

Death of the victim was at her matrimonial home.

In such circumstances, we are unable to grant anticipatory bail to the petitioner nos. 1 and 2 and the prayer for anticipatory bail in respect of the petitioner nos. 1 and 2 is rejected.

C.R.M. (A) 641 of 2024 in respect of the petitioner nos. 1 and 2 is dismissed.

However, so far as the petitioner no. 3 is concerned, since she was not placed at the place and time of occurrence, we deem it appropriate to grant anticipatory bail to her.

In such circumstances, we grant anticipatory bail to the petitioner no. 3.

Accordingly, we direct that in the event of arrest, the petitioner no. 3, **Madhuri Mal @ Shyamali Mal** shall be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of like amount each, to the satisfaction of the arresting officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973. The petitioner no. 3 shall appear on every date before the Jurisdictional Court on and from the date fixed for appearance of the accused and in default the jurisdictional Court will pass appropriate order to secure the presence of the petitioner no. 3 in Court including cancelling the anticipatory bail granted without further reference to this Court.

This application for anticipatory bail is, thus, allowed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)