

11.06.2024
SL No.1
Court No.29
(gc)
(Allowed)

CRM (A) 1730 of 2024

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed in connection with Domjur Police Station Case No.905 of 2023 dated 25.12.2023 under Section 306 of the Indian Penal Code and adding Section 6 of the POCSO Act.

And

In the matter of : **Hosanara Begam @ Hosna Begam & Ors.**

- Petitioners.

Md. Asrof Ali,

Mr. Rafikul Islam Sardar

....For the Petitioners.

Ms. Tannistha Bandyopadhyay

....For the De facto Complainant.

Mr. Saibal Bapuli, Ld. A.P.P.,

Md. M.F.A. Beg

... For the State.

1. The petitioners are the mother and brother of the principal accused. Learned Counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated.
2. The learned Counsel for the de facto complainant has referred to the statement of the neighbours recorded under Section 161 of the Cr.P.C. which, *prima facie*, shows that the petitioners were also involved in assaulting the victim before she alleged to have committed suicide.
3. The learned Counsel for the State has also referred to the statement recorded by the neighbours under Section 161 of the Cr.P.C. The principal accused is in custody since 19th February, 2024.

4. A Coordinate Bench in considering the prayer for anticipatory bail of the father of the principal accused has observed that keeping in mind the extent of complicity of the petitioner in the crime, the prayer for anticipatory bail can be granted to the father of the principal accused. The Coordinate Bench has also taken note of the fact that the father of the principal accused and others had abused the victim. The present accused petitioners stand on the same footing as Md. Ali Dewan in whose favour anticipatory bail was granted in CRM (A) 1176 of 2024.
5. On parity of reasoning, we are inclined to grant anticipatory bail to the petitioners.
6. Accordingly, we direct that in the event of arrest, the petitioners, namely, **Hosanara Begam @ Hosna Begam, Golam Mortaja @ Golam Mortaza Dewan** and **Hasibul @ Hasibul Rahaman Dewan** shall be released on bail upon furnishing a bond of Rs.10,000/- each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer and also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on condition that they shall appear before the jurisdictional Court and pray for regular bail within a period of four weeks from date.
7. Accordingly, the application for anticipatory bail is disposed of.
8. We direct the Secretary, DLSA, Howrah to engage a senior lawyer to represent the de facto complainant in Domjur Police Station Case No.905 of 2023 and to closely monitor the progress of the trial.

9. The de facto complainant is present in Court and she has expressed apprehension of being threatened by the family members of the principal accused.
10. We direct the Officer-in-Charge of the Domjur Police Station to ensure safety and security of the de facto complainant.
11. We make it clear that violation of any of the conditions under Section 438(2) of the Cr.P.C., 1973 would immediately result in recalling of the benefit of this order without any further reference to this Court.
12. This order shall be immediately communicated to the Secretary, DLSA, Howrah and the Commissionerate, Howrah.
13. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Soumen Sen, J.)

(Uday Kumar, J.)