

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

C.R.M. (A) 2221 of 2024

Deb Narayan Das & Anr.

VS.

The State of West Bengal & Anr.

For the petitioners : Mr. Jayanta Narayan Chatterjee, Advocate,
Mr. Sourav Chatterjee, Advocate,
Mr. Supreem Naskar, Advocate,
Ms. Jayashree Patra, Advocate.

For the State : Mr. Sanjoy Bardhan, Advocate,
Ms. Sonali Bhar, Advocate.

For the de facto complainant : Mr. Apalak Basu, Advocate,
Mr. Arkadipta Sengupta, Advocate,
Mr. Prasanta Kumar Ray, Advocate,
Ms. Aayushi Mukherjee, Advocate.

Heard on : August 22, 2024

Judgment on : August 22, 2024

DEBANGSU BASAK, J.:-

1. This is an application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with G.R. Case No.162 of 2024 arising out of Durgapur Women Police Station Case No. 07 of 2024 dated 27.01.2024 under Sections 498A/323/406/506/34 of the Indian Penal

Code, 1860 read with Sections 3/4 of the Dowry Prohibition Act, 1961 presently pending before the Learned Additional Chief Judicial Magistrate, Durgapur.

2. This application for anticipatory bail is specially assigned to this Bench.
3. Petitioners renew the prayer for grant of anticipatory bail on the ground of change in circumstances subsequent to the earlier order of rejection.
4. Prayer for anticipatory bail of the petitioners made in C.R.M. (A) 767 of 2024 was rejected by this Bench on March 6, 2024.
5. Learned Advocate appearing for the petitioners submits that, the Court proceeded on the basis of the de facto complainant filing a police complaint at Mumbai. He draws the attention of the Court to the response to a Right to Information Act filed by his clients. He submits that, the relevant police station at Mumbai stated that, there was no First Information Report registered as against the petitioners at the behest of the de facto complainant, at such police station. He submits, therefore, that, since the Court proceeded on the basis of a police complaint being registered at the behest of the de facto complainant at Mumbai and since such police complaint being prior in point of time and since the restitution application being second in point of time and since the factum of registering of an FIR at Jalgaon, Maharashtra is belied by the documentary evidence of the response under the Right to Information Act, there is a material change in circumstances. Consequently, he submits that, the prayer for grant of anticipatory bail be considered by the Court.

6. Learned Advocate appearing for the State produces the case diary. He draws the attention of the Court to the materials therein. He submits that, the Court on the earlier occasion proceeded not only on the basis of the statement of the de facto complainant as recorded in the order of rejection dated March 6, 2024 but also on the basis of the materials contained in the case diary.
7. In response to the query of the Court, learned Advocate appearing for the State submits that, the investigations are ongoing and that, there subsists an order dated July 8, 2024 passed by the Coordinate Bench directing no coercive steps be taken as against the petitioners in the meantime.
8. Learned Advocate appearing for the State points out that, warrant of arrests were issued against the petitioners on two occasions by the jurisdictional Court and that, such warrant of arrests continues to remain unexecuted.
9. Learned Advocate appearing for the de facto complainant submits that, there is no question of the Court being misled on the previous occasion. He points out that, his client complained to the police with regard to the mental and physical torture meted out by the petitioners to her at Jalgaon, Maharashtra. He submits that, there cannot be two FIRs in respect of the same incidence. His client lodged the FIR in question in respect of which, the petitioners are seeking anticipatory bail. No FIR was sought to be lodged in Jalgaon, Maharashtra and none registered.

10. Earlier prayer for anticipatory bail made in C.R.M. (A) 767 of 2024 of the petitioners was rejected by us on March 6, 2024.
11. While rejecting the prayer, one aspect we took into consideration was the submission made on behalf of the de facto complainant that, there was a complaint of 2023 filed with the police station at Jalgaon, Maharashtra.
12. We perused a copy of the complaint dated August 7, 2022 made by the de facto complainant to the Ramnandnagar Police Station, Jalgaon. Such writing of the de facto complainant dated August 7, 2022 narrates incidents of both physical and mental torture meted out to her by her in-laws which includes the petitioners. In the last line of such letter, de facto complainant wrote that she was going to initiate legal proceedings against her husband at Durgapur, West Bengal, to which place she was proceeding to.
13. We recorded in our order of rejection dated March 6, 2024 that, there was a police complaint of 2023. The complaint to the police was on August 7, 2022. No First Information Report was registered by the police at Jalgaon, Maharashtra in view of the last sentence of the complaint lodged with the police by the de facto complaint.
14. The restitution application is second in point of time than the complaint made by the de facto complainant to the police at Jalgaon.
15. Independent of these facts, we perused the materials in the case diary again to satisfy our conscience as to whether prayer for anticipatory bail should be granted or not.

16. There are statements recorded by the parents of the de facto complainant implicating the petitioners in demand for dowry, mental and physical torture on the de facto complainant.
17. Matrimonial home of the de facto complainant was at Maharashtra.
18. Requirement of investigation into the police complaint stands made out.
19. In our view, there is no material change in circumstances since the earlier order of rejection dated March 6, 2024.
20. We are not in a position to return a finding that we were misled by any submission made on behalf of the de facto complainant on March 6, 2024. In fact, copy of the writing dated August 7, 2022 of the de facto complainant was made available to us on March 6, 2024 itself.
21. In such circumstances, we are unable to grant anticipatory bail to the petitioners.
22. Accordingly, the prayer for anticipatory bail of the petitioners is rejected.
23. **C.R.M. (A) 2221 of 2024** is dismissed.

(Debangsu Basak, J.)

24. I Agree.

(Md. Shabbar Rashidi, J.)

(AD)