

06.08.2024
Court No.29
Item No. 36

Allowed

sg

CRM (A) 2656 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure read with Section 482 of the BNSS, in connection with Palashipara Police Station Case No. 110 of 2022 dated 26.03.2022 under Sections 376(3)/120B IPC and Section 6 of POCSO Act and charge sheet filed under sections 363/366/120B IPC and section 17 of POCSO Act,, pending before the learned Additional Sessions Judge cum Judge Special Court, under POCSO Act at Tehatta, Nadia.

And

In Re: **Murshida Bibi @ Murshida Bibi Sekh & Anr.**
Petitioners

Mr. Amanul Islam
Mr. Sourav Mukherjee

For the Petitioners

Mr. Rudradipta Nandy
Mr. Debarshi Brahma

For the State

1. Affidavit of service filed in Court is taken on record.
2. In spite of service, the victim is not represented.
3. Claiming parity with the co-accused person namely, Momin Sk @ Momin Hosen, who has been granted anticipatory bail in CRM(A) 1696 of 2022 on 20th April, 2022 by the coordinate Bench, a prayer for anticipatory bail is made.
4. The learned Counsel appearing on behalf of State submits that in view of Section 376(3) of the Indian Penal Code, the application for anticipatory bail is not permissible in law under Section 38(4) of the Code of Criminal Procedure. However, it seems that the coordinate Bench has not considered

the said aspect of the matter and it is for the State to take appropriate step in this regard.

5. We have considered the statement of the victim recorded under Section 164 of the Code of Criminal Procedure wherefrom it appears that statement implicates Momin Sk and Arsad Sk as the principal accused. However, there has been no specific overt act against the present petitioners.
6. Under such circumstances, we are of the view that the custodial interrogation of the present petitioners is not necessary.
7. Accordingly, we direct that in the event of arrest the petitioners namely, **Murshida Bibi @ Murshida Bibi Sekh and Majila Bewa @ Majila Bibi Sekh**, 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 Arresting Officer, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure corresponding to Section 482(2) of the Bharatiya Nagarik Suraksha Sanhita. The petitioners shall meet the I.O. once in a week till the submission of final report and shall appear before the learned Trial Court every day 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 petitioners in Court including cancelling the anticipatory bail granted without further reference to this Court.
8. Accordingly, the prayer for anticipatory bail of the petitioners is allowed.
9. All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Soumen Sen, J.)

(Uday Kumar, J.)