

06.09.2024
Court No.29
Item No. 12

BM/Aloke

CRM (A) 3124 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure corresponding to Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Sagardighi P.S. Case No. 343 dated 09.08.2024 under Sections 354/511/376/34 of the Indian Penal Code and Section 7/8/12 of the POCSO Act, 2012, pending before the learned ACJM, Jangipur.

And

In Re: **Anok Sarkar @ Anok Kumar Sarkar & Anr.**

Petitioners

Mr. Kamalesh Chandra Saha
Mr. M. Saha

... For the Petitioners

Mr. Bibaswan Bhattacharya
Mr. Debanik Das

... For the State

1. Heard the learned counsel for the parties.
2. Leave is given to correct the description of the matter in course of the day as Sections 7, 8 and 12 of the POCSO Act have been added.
3. The learned counsel for the petitioners submits that the petitioner no. 1 is the uncle of the victim and the petitioner no. 2 is the wife of another uncle of the victim whose husband is in custody.
4. It is submitted that due the family dispute a false complaint had been lodged against the petitioners.
5. The attention is drawn to paragraph 4 of the petition wherefrom it appears that the petitioner no. 1 has filed a specific complaint against the de facto complainant and others on 12th July, 2024. Prima facie it appears that there has been a dispute between the petitioners and the de facto complainant and her husband.

6. The petitioner no. 1 and the father of the victim are full brother as revealed from the statement of the father of the victim Kartick Sarkar.
7. The learned counsel appearing of the State in opposing the prayer for anticipatory bail has referred to the case diary and the statement of the victim recorded under Section 164 of the Code of Criminal Procedure.
8. It is surprising that having regard to the bitter enmity the mother of the victim allowed the victim to be taken to the chamber of the husband of the petitioner no. 2 in which allegedly the petitioner no. 2 was present. Nothing has been said about the presence of the mother of the victim during examination of the victim.
9. Considering the materials available in the case diary and having regard to the fact that in spite of enmity between the brothers surprisingly the mother did not accompany her child to the chamber of the husband of the petitioner no. 2 who is only eight years old and also with regard to the nature of the disputes between the parties and the inconsistency in the statement of the father of the victim and the statement of the victim and the de facto complainant and also regard being had to the fact that the victim has refused medical examination, the possibility of false implication cannot be ruled out. The husband of the petitioner no. 2 is in custody.
10. We are of the view that custodial interrogation of the petitioners is not necessary.
11. Accordingly, we direct that in the event of arrest the petitioners, namely, **Anok Sarkar @ Anok Kumar Sarkar** and **Sikha Sarkar**, 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, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure and subject to further condition that the

petitioners shall appear before the trial Court within two weeks from date thereafter on each and every date of hearing until further orders.

12. In the event the petitioners fail to appear before the trial Court without any justifiable cause, the trial Court shall be at liberty to cancel their bail in accordance with law without any further reference to this Court.

13. Accordingly, the prayer for anticipatory bail of the petitioners is allowed.

14. CRM (A) 3124 of 2024 is, thus, disposed of.

15. All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Soumen Sen, J.)

(Shampa Dutt (Paul), J.)