

07.10.2024
Court No.29
Item No. 82

Allowed

sg

CRM (A) 3650 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure read with Section 482 of Bhartiya Nagrik Suraksha Sanhita, in connection with Park Street Police Station Case No. 17 of 2024 dated 01.02.2024 under Section 447/341/323/380/427/34 of Indian Penal Code, pending before the learned Chief Judicial Magistrate at Calcutta.

And

In Re: **Kainat Fatima & Anr.**

Petitioners

Mr. Mohammad Khairul
Sk. Shabibun Ullah

For the Petitioners

Ms. Sukanya Bhattacharyya
Mr. Prakash Mishra

For the State

Mr. Sudip Banerjee
Mr. Sanjoy Kumar Das
Ms. F. Anjum

For the defacto complainant

1. We have heard the learned Counsel for the parties.
2. The petitioner no.1 is the daughter-in-law and the petitioner no.2 is the son of the defacto complainant. The dispute with regard to the possession of one tenanted flat of Bright Street has resulted in acrimony between the father and the son. The son claims that the father, at the instigation of the married sister, is creating disturbance. She is interfering with the family affairs. It is further submitted that the petitioner has no grievance against the unmarried sister and her staying in the premises has not been disturbed.
3. The learned Counsel for the defacto complainant has alleged that a civil suit is pending between the parties and the petitioners are trying to violate the said

order. However, no list of ornaments alleged to have been stolen could reveal from the case diary.

4. The learned Counsel for the State has produced the case diary and opposed the prayer for anticipatory bail.
5. Considering the materials available in the case diary, the nature and extent of complicity of the petitioners in the commission of alleged offence and also having regard to the fact that a civil dispute with regard to possession and enjoyment of a tenanted flat as mentioned in paragraph 4 of the petition filed under Section 156(3) of the Code of Criminal Procedure, is pending between the parties and in view of the fact that the case diary does not disclose any list of ornaments alleged to have been taken away by the petitioners, we are of the view that the custodial interrogation of the present petitioners is not necessary.
6. Accordingly, we direct that in the event of arrest, the present petitioners, namely, **Kainat Fatima and Md Danish Ahmed**, shall be released on bail upon furnishing a bond of Rs.10,000/- each, with two registered sureties of like amount each, 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 corresponding to Section 482(2) of the Bharatiya Nagarik Suraksha Sanhita and on further condition that the petitioner no.2 shall meet the Investigating Officer once in a fortnight till the submission of the final report and the petitioner no.1 shall cooperate with the investigation. The petitioners shall appear before the jurisdictional court within two weeks from date.
7. Accordingly, the prayer for anticipatory bail of the petitioners is allowed.

8. 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.)