

Present: **Shri Nirvan Khesong**
Additional Sessions Judge, 5th Court, Krishnagar
and In-charge of Sessions Judge, Nadia.

Criminal Misc. Case No.2529 of 2022

Order No.02
14.09.2022

The application for anticipatory bail **U/s 438 Cr.P.C.** filed on behalf of accused/petitioners, namely, **(1) Tapan Ghosh and (2) Shila Ghosh** who apprehend arrest in connection with **Kotwali PS Case No.264/2018** dated **08.07.2018 under Sections 363/366/34 of the IPC** is taken up for hearing along with LCR and CD.

Application under section 438 Cr.P.C states that no similar bail application is pending or disposed of before any Higher Court of law.

Heard Learned Advocate for the accused/petitioners as well as Learned Public Prosecutor.

Learned Advocate for the accused/petitioners submitted that he will not press the application under section 438 of the Cr.P.C. against accused/petitioner no.1 Tapan Ghosh, as he has neither been named in the FIR nor named in the charge sheet. Accordingly, **the anticipatory bail application in respect of accused/petitioner no.1 Tapan Ghosh stands rejected, being not pressed.**

Learned Advocate for the accused/petitioner Shila Ghosh further submitted that she is the aunt of the principal accused person and there is no allegation of kidnapping against this accused/petitioner. He has further submitted that only allegation against her is that she abused the parents of the victim when they had been to the house of the accused/petitioner. He has further submitted that this accused/petitioner no.2 will face trial, if she is released on anticipatory bail. So, Learned Advocate prays for anticipatory bail on any terms and conditions.

On the other hand, Learned Public Prosecutor objected the prayer for anticipatory bail under section 438 of the Cr.P.C. on the ground that the accused/petitioner no.2 has been charge sheeted by the Investigating Officer and there is sufficient material against her and she does not deserve anticipatory bail.

Considered the respective submissions.

Perused the CD and other materials on record including the statement made by the victim girl under section 164 of the Cr.P.C.

On perusal, I find that there is no allegation of kidnapping against accused/petitioner no.2 nor there is any allegation against accused/petitioner no.2 in the statement of the victim girl recorded under section 164 of the Cr.P.C.

Considering the materials in CD and record and submission of charge sheet by the Investigating Officer, this Court is of the opinion that this is a fit case for allowing anticipatory bail under section 438 of the Cr.P.C. in favour of the accused/petitioner no.2. As such, I am inclined to allow anticipatory bail to the accused/petitioner no.2. Hence, the prayer for anticipatory bail stands **allowed in her favour.**

Accordingly, in the event of arrest, in connection with the above-mentioned case, **the accused/petitioner no.2, stated above,** may find bail of **Rs.5000/-** with **two sureties** of Rs.2500/- each, subject to the satisfaction of the **Arresting Officer** and on **conditions** enumerated under Section 438(2) of the Cr.P.C.

CD and LCRs be returned.

Criminal Misc. Case, is, thus, finally disposed of.

Dictated & Corrected by me

Sd/- N. Khesong

Sd/- N. Khesong

Sessions Judge, Nadia
(In-charge)

Sessions Judge, Nadia
(In-charge)
14.09.2022