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14.3.2019
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Allowed

**Circuit Bench of
Calcutta High Court
at Jalpaiguri
Appellate Side**

C.R.M. 09 of 2019

Re: An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed on 12.03.2019 in connection with Mathabhanga Police Station Case No. 13 of 2019 dated 08.01.2019 under sections 498A/313 of the Indian Penal Code.

In the matter of : Ashish Kumar Biswas ... Petitioner

Mr. Debjit Kundu
... For the Petitioner.

Mr. Aditi Shankar Chakraborty
Mr. Nilay Chakraborty
... For the State.

Heard the learned advocates appearing for the parties.

It is submitted on behalf of the petitioner that the petitioner is an assistant school teacher of Hasimara High School and is the husband of the de facto complainant. It is further submitted that the petitioner is totally innocent and has been falsely implicated in this case only to tarnish his reputation. It is also submitted that the story of abortion as alleged in the petition of complaint is totally concocted as in the earlier complaint lodged by the father of the de facto complainant, there was no story of reported abortion. It is further submitted that the petitioner has already filed a revision petition for quashing of the First Information Report which has duly been admitted by this Hon'ble Court and notice has duly been issued upon the de facto complainant as also upon her father. It is also submitted that there is no need for custodial interrogation of the petitioner and the petitioner will co-operate

with the Investigating Officer and will not misuse the liberty of bail, if granted by this Court.

The learned advocate appearing for the State opposes the prayer for anticipatory bail and submits that 'Streedhan' articles of the de facto complainant have not yet been recovered and the case is at the stage of investigation.

We have considered the submissions of the learned advocates appearing for the respective parties and materials on record including the statements of the witnesses recorded under section 161 as well as under section 164 of the Code of Criminal Procedure.

In view of the submissions made on behalf of the learned advocate appearing for the respective parties and the nature of the offences and the materials in the case diary, we are of the opinion that custodial interrogation of the petitioner may not be necessary and he may be granted anticipatory bail.

Accordingly, we direct that in the event of arrest the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of Rs.5,000/- each to the satisfaction of the arresting officer and subject to the conditions as laid down under section 438(23) of the Code of Criminal Procedure and on further conditions that the petitioner while on bail, shall report to the Investigating Officer of the instant case once in a fortnight until further orders.

The application for anticipatory bail is allowed accordingly.

C. R. M. 09 of 2019 is thus disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Biswanath Somadder, A.C. J.)

(Md. Mumtaz Khan, J.)