

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

15.07.2019

Court No.01
Item No. 152
CHC/gc

CRM 318 of 2019

(Allowed)

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed on 22.04.2019 in connection with Boxirhat Police Station Case No. 20/19, dated February 16, 2019 under Sections 417/376(i) of the I.P.C.

And

In the matter of: Bachhu Mia @ Abdul Hossain Mia.

.....Petitioner

Mr. Hillol Saha Poddar, Advocate

....For the Petitioner

Mr. Ujjwal Luksom, Advocate

Ms. Namrata Das, Advocate

.....For the State

It is submitted by the learned advocate for the petitioner that he has been falsely implicated in this case once again after he has been acquitted earlier in connection with Sessions Case No.04/TFG/17 involving almost self-same allegation, lodged against the petitioner by the self-same de-facto complainant.

The copy of the order dated 26th April, 2017, passed in Sessions Case, number of which mentioned hereinabove, be kept on record.

The allegation against the petitioner is that the petitioner allegedly developed physical relationship with the victim promising her to marry and even after enjoying her, ultimately refused to marry her.

Learned Additional Public Prosecutor raising objection with regard to prayer for bail submits that though the petitioner-accused has been favoured with acquittal, but under a compelling circumstances the victim prosecutrix had

withdrawn the case previously instituted by her.

There is nothing convincing in support thereof, as the order furnished by the petitioner is devoid of anything, as proposed by the learned Additional Public Prosecutor.

There is nothing to establish that the victim felt aggrieved with the order passed in Sessions Case No.04.TFG/17 and preferred appeal before the appellate authority in exercise of her statutory right guaranteed under the Code of Criminal Procedure.

Upon consideration of the materials already collected in the C.D. and also regard being had to the facts and that previously this accused was favoured with acquittal in a similar case involving self-same allegation, we are inclined to grant the petitioner anticipatory bail.

Accordingly, in the event of arrest, petitioner will be granted bail upon furnishing a bond of Rs.10,000/- (rupees ten thousand) with two sureties of Rs.5000/- (rupees five thousand) each, to the satisfaction of the arresting officer and also subject to the condition as laid down under Section 438(2) Cr.P.C. and on further condition that petitioner shall ensure his appearance before the learned court below and obtain regular bail within a fortnight from the date of this order.

C.R.M.318 of 2019 stands disposed of.

(Subhasis Dasgupta, J.)

(Soumen Sen, J.)