

24.09.2020.
Item No. 18
(Withdrawn)

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(Via Video Conference)

C.R.M. 6498 of 2020

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Bakultala P.S. Case No. 07 of 2020 dated 05.01.2020 under Sections 323/325/307/308/384/392/34 of the Indian Penal Code;

And

In the matter of : **Subhendu Sarkar**

... petitioner.

Ms. Ameena Kabir.

...For the petitioner.

Mr. Sandip Ghosh,
Mr. Apurba Kr. Dutta.

...For the State.

The learned Advocate appearing for the petitioners submits that the petitioner has been implicated in the aforementioned case out of the family grudge/rivalry as both the petitioner as well as the accused person are related. There is a matrimonial dispute with the complainant and since the petitioner has supported the wife of the complainant, the present case has been lodged falsely.

The learned Advocate appearing for the State submits that although the complaint was lodged under Sections 323/325/307/308/384/392/34 of the Indian Penal Code but after the investigation the charge-sheet has been submitted under Sections 341/323/325/506/34 of the Indian Penal Code, which are bailable in nature.

In view of the submissions advanced by the respective Counsels and the fact that the charge-sheet has already been submitted on the sections, which are bailable in nature, further custodial interrogation of the petitioner is not necessary. However, we find that the provisions under Section 438 of the Code of Criminal Procedure cannot be

invoked in view of the language employed therein, more particularly, upon disclosure of the fact that the charge-sheet has been submitted under the bailable sections.

The learned Advocate appearing for the petitioner prays for withdrawal of the instant application.

Accordingly, we permit the learned Advocate appearing for the petitioner to withdraw the instant application.

However, it is recorded that this application shall not be shown pending in the docket of this Court.

(Hiranmay Bhattacharyya, J.)

(Harish Tandon, J.)