

14.10.2020

Item No.20

Ct.No.12

dc.

Rejected

C.R.M. 6795 of 2020

(Through Video Conference)

In Re : An Application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Raiganj Women P.S. Case No. 113 of 2020 dated 09.08.2020 under Sections 376/323/506 of the Indian Penal Code (corresponding G.R. Case No. 1373 of 2020).

And

In the matter of : Salim Sk @ Md. Salim ... Petitioner.

Ms. Bushra Khatoon ... For the Petitioner.

Mr. Prasun Datta,
Mr. Nirupam Dhali ... For the State.

Petitioner undertakes to affirm and stamp the petition/application as per Rules within a month of resumption of normal functioning of the Court. Subject to such undertaking, the application is taken up for hearing through video conferencing.

Learned advocate for the petitioner submits that the FIR was lodged against the accused under Sections 376/323/506 of the Indian Penal Code after two days of the occurrence. Secondly, the injury report/medical examination report of the victim does not suggest any injury on her private part in support of the allegation of rape. The FIR is an afterthought. There might be an incident of assault upon the defacto complainant but the defacto complainant has exaggerated the incident and made out a concocted story

against the petitioner only to harass him. therefore, the petitioner should be granted anticipatory bail.

Learned P.P.-in-Charge on the other hand has filed memo of evidence and draws our attention to the statement of the victim recorded under Section 164 of the Code of Criminal Procedure.

Having heard the learned advocates and on perusal of the memo of evidence as well as the FIR, it is ascertained that the victim clearly stated that after the incident, she informed the matter to her husband, but her husband without taking her to the local police station, drove her away and she took shelter to her father's house. Subsequently she was again assaulted by the son of the accused. Then only, she lodged the FIR. Therefore, prima facie we are of the view that delay in lodging the FIR has been sufficiently explained and at this stage of investigation, there is nothing to disbelieve the case made out by the complainant in the FIR. The injury report is not alone sacrosanct because of the fact that the victim is a married lady and mother of two children.

Considering the stage of investigation and extent of complicity of the accused, we are not inclined to grant anticipatory bail to the accused. Prayer for anticipatory bail is, accordingly, rejected.

CRM 6795 of 2020 is disposed of.

(Bibek Chaudhuri, J.)

(Subrata Talukdar, J.)