

24.11.2020

Item No.39

Ct.No.11

dc.

Rejected

C.R.M. 7641 of 2020

(Through Video Conference)

In Re : An Application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Haldibari P.S. Case No. 82 of 2020 dated 02.07.2020 under Sections 498A/302 of the Indian Penal Code (G.R. Case No. 292 of 2020).

And

In the matter of : Sampad Mondal ... Petitioner.

Mr. Kaushik Choudhury ... For the Petitioner.

Mr. Kallol Acharya,
Mr. Sourav Ganguly ... For the State.

The 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.

The learned advocate for the petitioner submits that after nine years of marriage, the incident took place and the present petitioner being the husband is innocent of the charges. The learned advocate also draws the attention of this Court to the order dated 15.09.2020 passed in CRM 6500 of 2020.

The learned advocate for the State opposes the prayer for anticipatory bail and submits that the victim was

tortured by the husband which was the cause of such deteriorative relationship.

We have taken into account the materials available in the case diary as also the order passed in CRM 6500 of 2020. Having regard to the fact that the said order was passed in an application under Section 439 of the Code of Criminal Procedure, we are of the opinion that the same privilege cannot be extended to the present petitioner in a case under Section 438 of the Code of Criminal Procedure. More so, the relationship of the petitioner is such that the petitioner can aid in investigation of the case. Having regard to the facts, we are of the opinion that this is not a fit case for extending the benefit under Section 438 of the Code of Criminal Procedure. As such, prayer for anticipatory bail is rejected.

CRM 7641 of 2020 is disposed of.

(Tirthankar Ghosh, J.)

(Subrata Talukdar, J.)