

25.05.2021
Court No.28
Item No. 01
Krishnendu
Allowed

CRM 1041 of 2021
(Via video Conference)

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure;

And

In Re : **Dulan Mollick @ Bachhan**

Petitioner

Mr. Sarwar Jahan
Md. Anisur Rahaman

For the Petitioner

Mr. Madhusudan Sur
Mr. Dipankar Paramanick

For the State

Apprehending arrest in connection with Rejinagar P.S. Case No. 366 of 2020 dated 19.12.2020 under section 376 of the Indian Penal Code, the petitioner has filed the present application.

Let the supplementary affidavit, as filed, be kept on record.

Mr. Jahan, learned advocate appearing for the petitioner submits that the petitioner is a C.I.S.F. personnel. There was a love relationship between the petitioner and the *de facto* complainant for more than seven years. On the date of the alleged incident, i.e. on 4th December, 2020, the petitioner was on duty at Bangalore. He applied for leave for the period from 6th December, 2020 to 29th December, 2020 and such leave was granted on 5th December, 2020 and he travelled to Kolkata on 5th December, 2020 itself. In support of such contention, Mr. Jahan has drawn the attention of this Court to the documents annexed to the supplementary affidavit. He further submits that the complaint was lodged about fifteen days after the alleged incident and in the said conspectus, custodial detention of the petitioner is not necessary.

Mr. Sur, learned advocate appearing for the State opposes the petitioner's prayer for anticipatory bail and draws our attention to several documents in the case diary, including the statement of the *de facto* complainant as recorded under section 164 of the Code of Criminal Procedure. He further submits that the plea of alibi is a matter of trial and the same cannot be agitated at the present juncture.

We have heard the learned advocates appearing for the respective parties and considered the materials on record. From the complaint as well as in the statements under sections 161 and 164 of the Code of Criminal Procedure it *prima facie* appears that the *de facto* complainant had consistently stated the date of occurrence to be 4th December, 2020. Furthermore, the complaint was lodged about fifteen days after the alleged incident.

Without going into the merits or demerits of the rival submissions and considering the facts and circumstances of the case, we are of the opinion that custodial detention/interrogation of the petitioner is not warranted. As such, the prayer for anticipatory bail of the petitioner is allowed.

Accordingly, we direct that in the event of arrest the petitioner, namely, **Dulan Mollick @ Bachhan**, shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the Arresting Officer and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

It is further directed that in the event the Investigating Officer requires the presence of the petitioner for the purpose of investigation, he shall give a week's notice to the petitioner through his controlling officer and the petitioner shall duly comply with the same. The petitioner is also

directed to intimate his present address and contact details to the Investigating Officer within a week from date. In the event there is any subsequent change in the petitioner's address, the same should also be immediately communicated to the Investigating Officer.

The application for anticipatory bail, being CRM No. 1041 of 2021 is, thus, disposed of.

The case diary is returned to Mr. Sur, learned advocate appearing for the state.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Bibek Chaudhuri, J.)

(Tapabrata Chakraborty, J.)