

29.07.2021.
371.
Akd/As
(Allowed)

**C.R.M. 1159 of 2021
(Via Video Conference)**

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Purulia (Sadar) Women P.S. Case No.10 of 2020 dated 06.12.2020 under Sections 417/376/120B/506 of the Indian Penal Code and added Section 6 of the POCSO Act.

In the matter of : Apurba Mahato @ Bapi. ... Petitioner.

Mr. Sourav Chatterjee,
Mr. Sougata Mitra,
Mr. Pawan Kr. Gupta.

.....for the Petitioner.

Ms. Faria Hossain,
Ms. Baisali Basu.

.....for the State.

Apprehending arrest in connection with Purulia (Sadar) Women P.S. Case No.10 of 2020 dated 06.12.2020 under Sections 417/376/120B/506 of the Indian Penal Code and added Section 6 of the POCSO Act, the petitioner has filed the instant application for anticipatory bail.

The allegation of the victim is that when she was aged about 11 years, the accused promised her to marry and for long 10 years, he cohabited with her and subsequently denied to marry.

The learned Advocate for the petitioner has filed certain documents wherefrom it is ascertained that the father of the victim previously lodged a complaint against the petitioner being Purulia (M) P.S. Case No.36 of 2015 dated 28.2.2015 in which FRT was submitted in favour of the accused. Subsequently, another case being Sessions Case No.17 of 2015 was instituted against the father of the victim on the complaint

made by the mother of the present petitioner and the father of the victim was held guilty for committing offence under Section 324/307 of the Indian Penal Code in the year 2015-16.

Had there been a love relation between the complainant and the petitioner, the father of the complainant ought not to have been convicted in a criminal case or that false criminal case ought not to have been filed by him against the petitioner. Moreover, considering the statement of the victim recorded under Section 164 of the Code of Criminal Procedure, it appears to us that a girl of 11 years is not competent to accept any promise being a minor.

Considering the entire fact being highly improbable, we are inclined to extend the immunity of Section 438 of the Code of Criminal Procedure.

Accordingly, we direct that in the event of arrest the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of like amount each, subject to the satisfaction of the arresting officer and on condition that the petitioner shall meet the Investigating Officer once in a fortnight and on further conditions as enshrined under Section 438(2) of the Code of Criminal Procedure, 1973.

This application for anticipatory bail is, thus, allowed.

The application for anticipatory bail, being CRM 1159 of 2021, is thus disposed of.

(Harish Tandon, J.)

(Bibek Chaudhuri, J.)

