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21-05-2021

Court 28

**C.R.M. 1790 of 2021
(Via Video Conference)**

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with English Bazar Police Station Case No. 1229 of 2020 dated 17.12.2020 under sections 498A/323/313/34 of the Indian penal Code read with Sections 3 and 4 of D.P. Act.

Allowed

Md. Golam Masum
Versus
State of West Bengal & Ors.

Mr. Musharraf Alam Sk., Adv.

...for the petitioner.

Mr. Rana Mukherjee, Adv.

Mr. NP Agarwala, Adv.

Mr. Pratick Bose, Adv.

...for the State.

It is submitted on behalf of the petitioner that he is the husband of the victim and has been falsely implicated. The victim left her matrimonial home much prior to lodging the present complaint.

The learned Counsel for the State refers to memo of evidence and opposes the prayer for anticipatory bail.

We have considered the materials on record. It appears that the victim left her matrimonial home on 2nd August, 2020 and the present complaint was lodged on 17th December, 2020. The memo of evidence further reveals that USG of the victim was conducted after she lodged the present complaint and according to the said report, the following was found: “On USG it was found that uterus was non-gravid. Her pregnancy was not detected on USG at that time”. It also appears from the memo of evidence that investigating officer has observed that “no issue is found of abortion according to the medical report”.

In view of such materials available before us, we are inclined to hold that there is no prima facie material against the petitioner under Section 313 of the Code of Criminal Procedure and his custodial interrogation may not be required and he may be granted anticipatory bail.

Accordingly, we direct that in the event of arrest, the petitioner namely, Md. Golam Masum, shall be released on anticipatory bail upon furnishing a bond of Rs. 10,000/- (Rupees Ten Thousand only), 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.

The application for anticipatory bail of the petitioner is allowed.

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

(Suvra Ghosh, J.)

(Soumen Sen, J.)