

31. 18.08.2021

Ct.32

Tanmoy

Allowed

C.R.M. 2078 of 2021

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on **23/02/2021** in connection with **Mothabari Police Station Case No. 440 of 2020** dated **20/12/2020** under Sections **417/376/313/506/34** of the Indian Penal Code.

And

In the matter of: - **Shubhankar Mandal @ Suvankar Mandal**
....petitioner.

Mr. Mazahar Hossain Chowdhury
...for the petitioner.

Mr. Anwar Hossain,
Mr. Pratick Bose
...for the State.

Leave is granted to the petitioner's learned Advocate-on-Record to correct the cause title.

The allegation against the petitioner is, *inter alia*, under Sections 417/376/313 of the Indian Penal Code. The petitioner submits that there was a love affair between the petitioner and the *de facto* complainant for about 7 years and the petitioner has been falsely implicated.

Learned Counsel for the State produces the Case Diary. We have considered the material in the Case Diary including statement of the victim lady under Section 164 of the Code of Criminal Procedure as well as her medical report.

The consensual relationship for about 7 years between the petitioner and the victim lady is not in dispute. It *prima facie*, appears that the victim lady underwent two "missed

abortions” but there is no material to *prima facie* suggest the role of the petitioner therein.

Having considered the material available in the Case Diary and the extent of complicity of the petitioner in the alleged incident and also, as relationship between the parties was consensual and the victim lady being a major, was aware of the consequences of such relationship all throughout, we are inclined to hold that immediate custodial interrogation of the petitioner may not be necessary and he may be granted anticipatory bail so long as he co-operates with the Investigating Officer.

Accordingly, 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, one of whom must be local, to the satisfaction of the arresting officer and shall abide by the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

In case the petitioner fails to adhere to any of the conditions mentioned in Section 438(2) of the Code, the learned Court below shall be entitled to cancel the anticipatory bail without further reference to this Court.

The application being C.R.M. 2078 of 2021 is, accordingly, disposed of.

All parties shall act in terms of server copy of this order downloaded from the official website of this Court.

(Suvra Ghosh, J.)

(Arijit Banerjee, J.)