

29. 01.09.2021

Ct.32

Tanmoy

Allowed

C.R.M. 2080 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. 490 of 2019** dated **23/11/2019** under Section **376** of the Indian Penal Code.

And

In the matter of: - **Md. Rajab Ali**

....petitioner.

Ms. Minoti Gomes,
Mr. Mazahar Hossain Chowdhury,
Mr. Suman Karmakar

...for the petitioner.

Mr. Prasun Kr. Dutta, Ld. A.P.P.,
Mr. Subrata Roy

...for the State.

The allegation is that the petitioner who used to work under the victim's husband as a labourer, went into the victim's house at 11 o'clock in the night and raped her.

The petitioner says that the victim's husband was a labour contractor under whom the petitioner worked. Lot of money was due from the victim's husband to the petitioner. To try and wriggle out of the obligation to pay such money, this false complaint has been lodged. It is inconceivable that the petitioner would go to the victim's house at 11 p.m., knowing about eight other family members resided there.

We have considered the medical report. There is nothing significant in that report. The medical examination was conducted on November 23, 2019 whereas, the alleged incident was of October 5, 2019. Further, the complaint was lodged only

on November 1, 2019 by way of application under Section 156(3) of the Code of Criminal Procedure. The undue and inordinate delay in lodging the complaint and undergoing medical examination has not been explained.

Prima facie, we are of the view that the material is such as not to implicate the petitioner. Charge-sheet is yet to be submitted.

On an overall assessment of the material on record, we are of the view that immediate custodial interrogation of the petitioner may not be necessary so long as he co-operates with the Investigating Officer.

Accordingly, in the event of arrest, the petitioner, *viz.*, **Md. Rajab Ali** 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.

And with further condition that the petitioner shall not enter into the jurisdiction of Mothabari Police Station without leave of the learned Court below. The petitioner shall also report to the Investigating Officer once every fortnight until further orders.

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. 2080 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.

(Bivas Pattanayak, J.)

(Arijit Banerjee, J.)