

15.09.2021
Item no.32.
Court No.32.
AB
(Allowed)

(Via Video Conference)

CRM No. 2307 of 2021

In Re: An Application for Anticipatory Bail under Section 438 of the Code of Criminal Procedure filed on 01.03.2021 in connection with Chanchal Police Station Case No.433 of 2016 Dated 18.08.2016 under Sections 420/493/376 of the Indian Penal Code

And

In the matter of : Muktar Husen @ Moktar Hossain

.....Petitioner.

Mr. Soupal Chatterjeefor the Petitioner.

Mr. S. G. Mukherjee, Id. PP,
Mr. Partha Pratim Das,
Ms. Manasi Royfor the State.

The charges against the petitioner are under Sections 420/493/376 of the Indian Penal Code.

The prosecution case is that the petitioner had physical relationship with the victim girl against her wish. This amounted to rape.

The petitioner says that negotiation of marriage between the petitioner and the victim was going on between the two families. Ultimately, the negotiation broke down. In the meantime, the petitioner and the victim had consensual physical relationship. Both of them were majors at the relevant point of time. Charge sheet has already been submitted.

We have seen the material in the case diary including the statements of various witnesses and the victim. It does not prima facie appear from such statements that the petitioner raped the victim. The victim girl refused to undergo medical examination.

On an overall assessment of the material on record and the facts and circumstances of the case and keeping in mind that charge sheet has already been filed, we are of the view that immediate custodial interrogation of the petitioner is not necessary.

Accordingly, in the event of arrest, the petitioner, namely Muktar Husen @ Moktar Hossain 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 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 for anticipatory bail being C.R.M. No.2307 of 2021 is, thus, allowed.

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

(Bivas Pattanayak, J.)

(Arijit Banerjee, J.)

