

CRM No.2655 of 2021

Via video conference

16.12.21

(S.R.)

Sl.545

Ct.32

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Berhampore Women** Police Station Case No.155 of 2020 dated 12/11/2020 under Sections 417/376 of the Indian Penal Code;

And

In re: Bijoy Mahato

... petitioner.

Mr. Satadru Lahiri

... for the petitioner.

Mr. B.K. Roy

Mr. Mirza Firoj Ahmed Begg

...for the State.

Mr. Lahiri, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated. The complaint was lodged about twenty days after the alleged incident. The victim girl, who is an adult, willingly entered into a relationship with the petitioner and as such, the ingredients of Sections 417/376 of the Indian Penal Code are not attracted in respect of the petitioner. In view thereof, the petitioner may be granted anticipatory bail on any stringent condition. In support of his contention, Mr. Lahiri has placed reliance upon the judgment delivered in the case of *Pramod Suryabhan Pawar v. State of Maharashtra & Anr.*, reported in (2019) 9 SCC 608.

Mr. Roy, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to several documents in the case diary including the statement of the victim girl, as recorded under Section 164 of the Code.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

Prima facie, there are incriminating materials on record against the petitioner. From the statement of the victim girl, it appears that there was a previous negotiation between the two families and after

that the relationship was entered into and subsequently, the petitioner refused to marry. Considering the seriousness of the offence and the nature of accusations, we are not inclined to exercise any discretion in favour of the petitioner.

Accordingly, the application for anticipatory bail being CRM No.2655 of 2021 is dismissed.

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

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)