

C.R.M. 3252 of 2021

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Domkal P.S. Case No. 83 of 2021 dated 28.02.2021 under Sections 363/365 and adding Section 302 of the Indian Penal Code.

And

In the matter of: Kalu Mondal @ Bhabesh Mondal

....petitioner.

Mr. Sabir Ahmed,
Mr. Jisan Iqubal Hossain

...for the petitioner.

Mr. S. S. Imam,
Mr. S. Kundu

...for the State.

Anticipatory bail is sought by the petitioner, who is friend of the husband of the victim. The principal argument advanced is that at the time of the FIR was lodged by the brother of the victim it was stated that the daughter of the victim was sent back by the victim herself to her house from the place of occurrence. Subsequently when the victim was found dead behind the house of the husband charge under Section 302 was added and a statement under Section 164 of the child was recorded. It was stated that the petitioner was present with the accused husband when the incident occurred. Since then the victim was missing and it is the petitioner who accompanied the daughter to an auto stand and ensured that she left for her house.

Mr. Ahmed, learned counsel for the petitioner would submits that the petitioner is a well-known politically active person in the locality and cannot be allowed to detain in custody.

He further submits that there is a clear contradiction

between the original complaint and the statement recorded under Section 164 CrPC. He further submits that there is no need of iota of evidence against his client and his client is entitled to relief under Section 438 CrPC.

This Court notes that the original complaint was lodged to locate the missing victim and after the victim's body was recovered the investigation was started under Section 302 IPC. It would be extremely pre-mature to make any presumption of the nature invited by the counsel for the petitioner by this Court to arrive at any conclusion of any prima facie case under Section 438 CrPC.

This court is of the view that the petitioner's interrogation may be required at the discretion of the investigating officer.

For the reasons stated above, the application under Section 438 CrPC is liable to be dismissed.

The parties shall act in terms of the copy of the order downloaded from the official website of this court.

(Biswajit Basu, J.)

(Rajasekhar Mantha, J.)