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13-08-2021
(ct. no.32)
debajyoti

CRM 4403 of 2021

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Maheshtala Police Station Case No.760 of 2020 dated 05-12-2020 under Section 376 of the Indian Penal Code.

- A n d -

In the matter of : Kutubuddin Molla

.... Petitioner.

Mr. Sayan De,
Mr. Sayan Kanjilal

... For the Petitioner.

Mr. Prasun Kumar Dutta,
Mr. Pradipta Kumar Ganguly

... For the State.

The petitioner is the brother-in-law of the victim lady and has been charged with offence under Section 376 of the Indian Penal Code.

The petitioner submits that there is a long pending marital dispute between the petitioner and his wife, which has resulted in the wife's sister/the victim herein lodging such false complaint against him. The FIR has been lodged at a delay of one year eight months and no material has transpired against the petitioner during investigation.

The State vehemently opposes the prayer for anticipatory bail and refers to the statements of the victim and her two minor daughters recorded under Section 164 of the Code. The State submits that the investigation is in progress and the charge-sheet is yet to be submitted.

We have considered the material in the Case Diary. There has been inordinate delay in lodging the FIR and the

explanation given for the same in the FIR itself is not very convincing. It is also not in dispute that there is a long pending marital discord between the petitioner and the sister of the victim.

Having considered the nature of allegations and the material available in the Case Diary, we are inclined to hold that though investigation is still in progress, immediate custodial interrogation of the petitioner may not be necessary so long the petitioner cooperates with the investigation.

Accordingly, in the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer. The petitioner shall abide by the conditions laid down in Section 438(2) of the Code of Criminal Procedure and shall meet the Investigating Officer once every fortnight until further orders.

In the event the petitioner fails to adhere to any of the conditions stipulated in Section 438(2) of the Code of Criminal Procedure, the learned Court below will be at liberty to cancel the anticipatory bail without further reference of this Court.

The application for anticipatory bail being CRM 4403 of 2021 is, thus, **allowed**.

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

(Suvra Ghosh, J.)

(Arijit Banerjee, J.)