

91 13.12.2021
(AD)
Court No.28
(Allowed)

**C.R.M. 4806 of 2021
(Via Video Conference)**

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Baishnabnagar** P.S. Case No. **675 of 2020** dated **05/12/2020** under Sections **376D/506** of the Indian Penal Code.
And

In the matter of: Suraj Dey

....petitioner.

Mr. Mrityunjoy Chatterjee

...for the petitioner.

Mr. Sanjoy Bardhan

Mr. Nirupam Dhali

...for the State.

Petitioner contends that he has been falsely implicated in the instant case. It is contended in the First Information Report petitioner is not named by the de facto complainant as one of her assailants. Belatedly, in her embellished statement under Section 164 of the Code of Criminal Procedure, the victim has falsely implicated the petitioner.

Learned lawyer for the State opposes the prayer for anticipatory bail and submits that petitioner was absconding and has been implicated by the victim not only in her statement before Magistrate but also in the medical papers.

We have considered the materials on record. Petitioner had promptly filed the prayer for pre-arrest bail upon submission of charge sheet wherein he was shown as an accused. Prayer for proclamation and attachment had been hurriedly made without recording requisite satisfaction with regard to abscondence of the petitioner. In fact, it is noted in the application for

proclamation/attachment that the petitioner was found loitering in neighbouring district. Hence, we are of the opinion petitioner cannot be said to an absconder. On merits, we note that the petitioner is not named in the First Information Report. In her statement before Magistrate recorded two weeks after registration of FIR, petitioner was implicated. Medical examination was also done on the self-same date. Hence, there is a belated embellishment in the prosecution case. Thus, false implication of the petitioner as an afterthought cannot be wholly ruled out. Under such circumstances, we are inclined to grant anticipatory bail to the petitioner subject to conditions.

Accordingly, we direct that in the event of arrest, the petitioner shall be released on bail upon furnishing a Bond of Rs.10,000/- with two sureties of like amount each, to the satisfaction of the Arresting Officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioner while on bail shall not enter the jurisdiction of Baishnabnagar police station until further orders except for the purpose of investigation and/or for attending court proceedings and shall provide the address where he shall presently reside to the Investigating Agency as well as the court below and shall report to the Officer-in-Charge of the police station concerned within whose jurisdiction he shall presently reside once in a week until further orders.

The petitioner shall appear before the Court below and pray for regular bail within four weeks from date.

The application for anticipatory bail being C.R.M. 4806 of 2021 is, thus, disposed of.

(Bivas Pattanayak, J.)

(Joymalya Bagchi, J.)