

14.12.2021
cm/ct 28
sl no. 105

C.R.M. 5964 of 2021

In Re : An application for Anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Bhatpara P.S Case No. 457 of 2021 dated 09/08/2021 under Section 323/325/354B/376 of the Indian Penal Code.

And

Allowed

In Re : Babulal Mitra @ Ashish Gomes Sunil
..... petitioner

Mr. Rajdeep Majumdar
Mr. Pritam Roy
..... for the petitioners

Mr. Madhusudan Sur, APP
Mr. Dipankar Paramanick
..... for the State

It is submitted on behalf of the petitioner that he had lodged a criminal case against the de-facto complainant and her husband who is his own brother. In retaliation he has been falsely implicated in the instant case.

Learned lawyer for the State opposes the prayer for bail.

We have considered the materials on record including the statement of the victim which stated that she was ravished for last six/seven years. She, however, did not make any complaint as she had been threatened by the petitioner. Credibility of such allegation of forcible rape and/or subsequent threats is to be assessed in the light of the attending facts and circumstances of the case particularly the registration of an earlier criminal case lodged against the de-facto complainant and her brother at the behest of the petitioner during trial. However, in the facts and circumstances of the case, we are of the opinion custodial interrogation may not be necessary and the petitioner may be granted pre-arrest bail.

Accordingly, we direct that in the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/- each 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 conditions petitioner shall report to the investigating officer once in a week until further orders.

Petitioner shall appear before the court below and pray for regular bail within two weeks from date.

The application being CRM 5964 of 2021 is disposed of.

(Bivas Pattanayak, J.)

(Joymalya Bagchi, J.)