

16.12.2021
Sl. No.120
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[ALLOWED]

C. R. M. 6722 of 2021

[via video conferencing]

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 04.10.2021 in connection with Nalhati Police Station Case No. 249 of 2021 dated 01.08.2021 under Sections 448/376(i) of the Indian Penal Code.

And

In Re: **Asekul Sk. @ Asekul Sekh**

... .. Petitioner

Mr. Spatarshi Chakraborty
Mr. Argha Kamal Das

... .. for the petitioner

Ms. Faria Hossain
Ms. Baisali Basu

... .. for the State

It is submitted on behalf of the petitioner that there is a family dispute and he has been falsely implicated in the instant case. Allegation of forceful rape in the room of the defacto complainant at mid night is patently absurd and inherently improbable.

Learned advocate appearing for the State opposes the prayer for anticipatory bail.

We have considered the materials on record including the statement of the victim lady. Victim is a married lady and has two sons who live with her under the same roof. Incident occurred at mid night while the victim was sleeping in her room. Credibility of the allegation of forceful rape in the light of the aforesaid circumstances requires to be assessed during trial. Under such circumstances, we are of the opinion though custodial interrogation of the accused/petitioner may not be necessary in the facts of the present case, his movements require to be restricted in order to instil confidence in the mind of the victim and other witnesses.

Accordingly, we direct that in the event of arrest, the accused/petitioner be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, to the satisfaction of the arresting officer and also 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 Nalhati 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 concerned police station within whose jurisdiction he shall presently reside once in a week until further orders. He shall appear before the court below and pray for regular bail within four weeks from date.

The application for anticipatory bail is, thus, disposed of.

(Bivas Pattanayak, J.)

(Joymalya Bagchi, J.)