

02.12.2021
Court No.32
rpan / 511

C.R.M. 6934 of 2021

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure ;

And

In re: **Mahidur Rahaman**

- Petitioner

Ms. Minoti Gomes,
Mr. Kausik Biswas
....for the Petitioner.

Ms. Sutapa Banerjee
....for the State.

Apprehending arrest in connection with Kaliachak Police Station Case No. 905 of 2021 dated 30.08.2021 under Sections 498A/323/376/34 of the Indian Penal Code, 1860, the present application has been preferred.

Ms. Gomes, learned advocate appearing for the petitioner submits that the petitioner is the brother-in-law of the victim lady and he has been falsely implicated. There was a quarrel amongst the family members pertaining to the family property. After the alleged incident the victim lady left her matrimonial house and lodged the complaint about 26 days thereafter. The ingredients of Section 376 of the Indian Penal Code are not applicable to the petitioner. In the said conspectus, custodial interrogation is not necessary.

The learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to several documents in the case diary, including the medical report and

the statement of the victim lady, as recorded under Section 161 of the Code of Criminal Procedure.

Heard the learned advocates and considered the materials in the case diary. It appears that the incident occurred on 4th August, 2021, FIR was registered on 30th August, 2021, whereas the medical examination was on 20th October, 2021. *Prima facie* no overt act has been attributed to the petitioner herein. In view thereof, we are of the opinion that custodial interrogation is not warranted in the facts and circumstances of the case.

Accordingly, we allow this application and direct that in the event of arrest the petitioner, namely, **Mahidur Rahaman**, shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the Arresting Officer and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 with a further condition that he shall meet with the investigating officer once a week on and from 10th December, 2021 until further orders.

It is further directed that the petitioner shall not tamper with the evidence or intimidate the witnesses. He shall also attend the learned Court below on all the dates, as specified for hearing.

In the event he fails to comply with the aforesaid directions, without any justifiable cause, the learned Court below shall be at liberty to cancel his bail, in accordance with law, without further reference to this Court.

The application for anticipatory bail, being CRM No. 6934 of 2021, is, thus, disposed of.

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

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)