

11.11.2021

CRM 6945 of 2021

Court No.28
Item No.31
(ALLOWED)

Ab

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed on 08.10.2021 in connection with Khargram Police Station Case No. 183 of 2021 dated 02.06.2021 under Sections 498A/307/34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act;

And

In the matter of : **Abul Kashem Azad.**

...Petitioner.

Ms. Minoti Gomes.

...For the Petitioner.

Ms. Kum Kum Mitra.

... For the State.

The Advocate-on-record of the petitioner undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking, the application is taken up for hearing.

Apprehending arrest in connection with Khargram Police Station Case No. 183 of 2021 dated 02.06.2021 under Sections 498A/307/34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act, the petitioner has filed the instant application for anticipatory bail under Section 438 of the Code of Criminal Procedure.

Learned Advocate for the petitioner submits that there was a matrimonial discord between the petitioner and the defacto complainant and, in fact, a suit for declaration that the marriage is a nullity had been filed by the petitioner before the civil court. According to the learned Advocate for the petitioner, the present case has been initiated as a counter-blast to such suit filed by the petitioner.

Learned Advocate for the State opposes the prayer for anticipatory bail and submits that the defacto complainant has disclosed the incident in her statement recorded under Section 164 of the Code of Criminal Procedure.

After hearing the respective Counsels and on perusal of the materials on record it appears that though the allegation has been made that the petitioner along with his family members tried to kill the defacto complainant and, in fact, assaulted her, but there is no medical document nor any injury appears to have been suffered by her, we do not find the element of Section 307 of the Indian Penal Code appears to have been disclosed in the investigation as of.

We, thus, feel that the custodial interrogation of the petitioner is not required.

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, one of whom must be local, 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 shall meet the investigating officer once in a fortnight until further orders.

The application for anticipatory bail being CRM 6945 of 2021 is, thus, **allowed**.

(Harish Tandon, J)

(Rabindranath Samanta, J.)