

17.12.2021
Item no.300
Court No.32
Avijit Mitra

C.R.M. 7501 of 2021

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

And

In Re : Md. Ajam

.... petitioner

Ms. Sujata Das

....for the petitioner

Mr. Angshuman Chakraborty

..... for the State

Apprehending arrest in connection with Harishchandrapur Police Station Case No.410 of 2021 dated 02.06.2021 under Sections 417/376/323/34 of the Indian Penal Code, the present application is filed praying for anticipatory bail.

Learned lawyer representing the petitioner, submitted that the petitioner and the victim girl are major. They had consensual relationship. Nothing is there to show that any relationship developed on false promise of marriage. The victim girl refused medical examination. Since chargesheet is filed custodial detention is not necessary. Accordingly, learned lawyer for the petitioner prays for anticipatory bail.

Per contra, learned lawyer for the State submitted, that incriminating elements are there in the case diary. Statement of the victim recorded under Section 164 of the Code clearly implicates the present petitioner in the alleged crime. Even though investigation is complete, learned lawyer representing the State strongly opposes to grant of anticipatory bail.

We have heard rival submissions and perused the case diary. The statement of victim recorded under Section 164 of the Code contains incriminating elements against the present petitioner. However, the statement of witnesses recorded under Section 161 of the Code to a certain extent contradicts the statements made by the victim under Section 164 of the Code. We are also mindful of the fact that the victim refused medical examination which, if done could have corroborated the allegations levelled against the present petitioner. On perusal of case diary and other materials we are not strongly convinced that sufficient incriminating materials are there against the present petitioner. Since investigation is over and custodial detention is not necessary, we are inclined to allow anticipatory bail to the present petitioner.

Accordingly, we direct that in the event of arrest, the petitioner, namely, **Md. Ajam**, shall 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 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

The petitioner shall attend the learned Trial Court on all the dates as fixed for hearing.

The petitioner shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner fails to comply with the aforesaid directions without any justifiable

cause, the learned trial court would be at liberty to cancel the petitioner's bail without any further reference to this Court.

The application for anticipatory bail being C.R.M. 7501 of 2021 is 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.)