

26-03-2021

Item no.36

Subrata

IN THE HIGH COURT AT CALCUTTA
Criminal Miscellaneous Jurisdiction

C.R.M. No.10926 of 2020

Sajid Hussain Ansari

-vs-

The State of West Bengal & Ors.

In Re: An application for anticipatory bail under **Section 438 CrPC**

Mr. Jagannath Ganguly

Mr. Hasmat Alam

...for the petitioner

Mr. Tanmoy Ghosh

Ms. Sima Biswas

... for the State

Mr. Sourav Chatterjee

Mr. Aditya Tiwari

...for the de facto complainant

Apprehending arrest in connection with Electronics Complex P.S. Case No.74 of 2020 dated November 16, 2020 under sections 493/417 IPC, the present case under section 438 of CrPC has been preferred.

Learned advocate for the petitioner submits that the present petitioner and the victim were in a relationship for a period of three years, and that, thereafter, the present FIR has been registered. Learned advocate additionally submits that the allegations made therein are embellished, and that the petitioner intends to cooperate with the investigation, as such, he may be granted the privilege of anticipatory bail.

Learned advocate appearing for the State opposes the prayer for bail and draws the attention of this court to the statement of the witnesses and the relevant part of the letter of complaint wherein materials are appearing against the petitioner.

Learned advocate for the de facto complainant submits that, surprisingly, the investigating agency has not invoked the provisions

of section 376 IPC, although there are allegations that the victim was forcefully violated of her privacy by the petitioner. The investigating agency is directed to address such grievance of the de facto complainant.

We have perused the materials on record as also the letter of complaint. It is the statement of victim before the investigating agency which reflects that the relationship started from December, 2017 and subsequently was terminated on the issue of the petitioner refusing to marry or incapable of marrying the victim, because he was already a married man.

Having regard to the fact that both the petitioner and the victim were matured, and that the physical relationship complained of was initially on consent of both parties as is revealed from the letter of complaint, we are of the opinion that although a case has been made, yet the custodial detention of the petitioner may not be warranted in the facts and circumstances of the case.

Accordingly, we allow the application for anticipatory bail and direct that in the event of arrest, the petitioner, namely **Sajid Hussain Ansari**, shall be released on bail upon furnishing a bond of Rs.10,000 (Rupees ten thousand only) with two sureties of like amount, one of whom must be local, to the satisfaction of the arresting officer and subject to the conditions laid down in section 438(2) CrPC; and on further condition that the petitioner shall not tamper with evidence and intimidate the witnesses in any manner whatsoever.

The petitioner shall deposit his passport by April 5, 2021 with the investigating officer of the case; and in case the same is required, the petitioner would apply before the jurisdictional magistrate for return of the same for limited period.

Furthermore, the petitioner shall meet the investigating officer once a week on and from April 8, 2021 or until further orders.

The application for anticipatory bail, being CRM No.10926 of 2020 is thus disposed of.

[Tirthankar Ghosh, J]

[Tapabrata Chakraborty, J]