

11.03.2021.
Item No. 109
(Allowed)

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C.R.M. 10986 of 2020

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 18.12.2020 in connection with Medinipur All Women Police Station Case No. 46 of 2020 dated 15.06.2020 under Sections 498A/323/307/509 of the Indian Penal Code read with Sections 3/4 of the Dowry Prohibition Act;

And

In the matter of : **Samaresh Nandi.**

... petitioner.

Mr. Dhananjoy Banerjee.

...For the petitioner.

Mr. Pratick Bose.

...For the State.

Apprehending arrest in connection with Medinipur All Women Police Station Case No. 46 of 2020 under Sections 498A/323/307/509 of the Indian Penal Code read with Sections 3/4 of the Dowry Prohibition Act, the petitioner has filed the instant application for anticipatory bail.

The learned Advocate for the petitioner submits that the petitioner has been falsely implicated in connection with the instant case because of the dispute having cropped up with the wife. The alleged case has been launched against the petitioner out of vengeance and there is no element of truth in such allegation. It is further submitted that the other co-accused have been granted privilege of anticipatory bail and, therefore, the petitioner standing on the same footing should also be granted anticipatory bail.

The learned Advocate for the State opposes the prayer for anticipatory bail. It is submitted that the complaint was lodged by the victim/wife alleging physical assault as well as the mental assault inflicted by the petitioner and the other family members. He relies upon the medical report of the

Doctor, who examined her. He further relies upon the statement of the other persons recorded under Section 161 of the Code of Criminal Procedure in order to establish the complicity of the petitioner to the alleged offence.

After hearing the respective Counsels and on perusal of the materials available from the case record it appears that the investigation is still going on and the investigating officer has not arrived at the final conclusion. Furthermore, the statement of the victim/wife does not find place in the case diary and statement of the other persons have been recorded under Section 161 of the Code of Criminal Procedure.

After perusing the medical report and the injury allegedly sustained by the victim/wife, we do not think it is a fit case where the custodial interrogation of the petitioner is necessary.

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, 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 with further conditions that the petitioner shall make himself available before the investigating officer as and when called for.

This application for anticipatory bail is, thus, **allowed**.

(Harish Tandon, J.)

(Kausik Chanda, J.)