

15.03.2021.
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as
(Rejected)

C.R.M. 11034 of 2020

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Tapan P.S. Case No.229 of 2020 dated 27.07.2020 under Sections 498A/302/34 of the Indian Penal Code read with Sections 4/6 of the Protection of Children from Sexual Offences Act, 2012 and charge sheet submitted under Sections 498A/304B/34 of the Indian Penal Code and adding Sections 4/6 of the POCSO Act.

In the matter of : Samser Chowdhury @ Chaudhuri.
... Petitioner.

Mr. Jayanta Narayan Chatterjee,
Mr. Kaushik Chaudhury,
Ms. Busra Khatun.

...for the Petitioners.

Mr. Tanmay Kr. Ghosh,
Ms. Sima Biswas.

.....for the State.

Apprehending arrest in connection with Tapan P.S. Case No.229 of 2020 dated 27.07.2020 under Sections 498A/302/34 of the Indian Penal Code read with Sections 4/6 of the Protection of Children from Sexual Offences Act, 2012 and charge sheet submitted under Section 498A/304B/34 of the Indian Penal Code and adding Sections 4/6 of the POCSO Act, the petitioner has filed the instant application for anticipatory bail.

It is submitted by the learned Advocate for the petitioner that the petitioner being the neighbour has been implicated in connection with the instant case alleging the offences to have been committed under the abovementioned sections without any linkage and/or nexus having established in this regard. It is further submitted that he is simply a neighbour neither

related by blood and, therefore, the aforesaid sections do not apply to him.

On the other hand the learned Advocate appearing for the State submits that the active involvement of the petitioner is established from the statements recorded under Section 161 of the Code of Criminal Procedure. All most all the persons whose statements are recorded under the aforesaid sections have disclosed the name of the petitioner and, therefore, custodial interrogation of the petitioner is required. He, thus, prays for rejection of application for anticipatory bail.

After hearing the respective counsels and upon perusal of the materials available from the case diary, it appears from the statement of the persons recorded under Section 161 of the Code of Criminal Procedure that the complicity of the petitioner is sought to be established. It is a question of trial whether the aforesaid sections which imbibe within itself the word 'relation' can be given a wider meaning to include any person who may not be related by blood but have a close association and/or be treated as a member of family. We do not think that it is a fit case where the petitioner should get a privilege for pre-arrest.

Accordingly, the application for anticipatory bail is rejected.

(Harish Tandon, J.)

(Abhijit Gangopadhyay, J.)

