

12.03.2021.

136.

as

(Allowed).

C.R.M. 11037 of 2020

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Kotwali P.S. Case No.668 of 2020 dated 10.09.2020 under Sections 498A/306/34 of the Indian Penal Code.

In the matter of : Sujan Saha.

... Petitioner.

Mr. Sudipto Moitra, Sr. Adv.,
Mr. Samiran Mandal,
Mr. Abhinaba Dan.

...for the Petitioner.

Mr. Binay Panda,
Ms. Puspita Saha.

.....for the State.

Apprehending arrest in connection with Kotwali P.S. Case No.668 of 2020 dated 10.09.2020 under Sections 498A/306/34 of the Indian Penal Code, the petitioner has filed the instant application for anticipatory bail.

The learned Advocate appearing for the petitioner submits that the petitioner being the husband have been falsely implicated in connection with the aforementioned case. The marriage was solemnised according to the Hindu ritual and rites with the deceased who caught fire accidentally and all efforts were made to give her the best treatment but unfortunately she succumbed to the said injury. But on the basis of the statement of the father-in-law of the petitioner, the first information has been lodged and the petitioner

apprehends the arrest in connection with the instant case. It is further submitted that the mother of the petitioner had already been granted anticipatory bail by this Court and in view of the alleged allegation, the petitioner cannot be singled out therefrom and, therefore, on the ground of parity as well, the petitioner may be granted anticipatory bail.

On the other hand, the learned Advocate appearing for the State opposes the prayer for bail and submits that the application for anticipatory bail was dismissed by the Sessions Judge as interrogation of the petitioner therein was felt necessary. It is further submitted that there is a wrong recording in the order of the Sessions Judge that there was no dying declaration of the victim and relies of the same before the Court.

After hearing the respective counsels and on perusal of the Case Diary and also the statement of the neighbour recorded under Section 161 of the Code of Criminal Procedure as well as the statement of the father of the deceased under Section 164 of the Code of Criminal Procedure, we initially thought that it is not a fit case for anticipatory bail. However, our attention has been drawn to a statement of the deceased recorded while in the hospital wherefrom it appears that she herself indicated the incident as an accident and, therefore, the involvement of the petitioner cannot be seen.

In view of the above, we feel that it is a fit case where the petitioner should be granted privilege of anticipatory bail.

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 must be local subject to the satisfaction of the arresting officer with further condition that the petitioner shall meet the Investigating Officer once in a week until the charge sheet is filed. Apart from the aforesaid conditions, the further conditions enshrined under Section 438(2) of the Code of Criminal Procedure, 1973 shall also apply.

This application for anticipatory bail is, thus, allowed.

(Harish Tandon, J.)

(Kausik Chanda,J.)