

28.01.2021

CRM 11170 of 2020

Court No. 02
Item No. 02
nandy

(ANTIBAIL - REJECTED)

In Re: An application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure filed on 23.12.2020 in connection with Bidhannagar North Police Station Case No. 169 of 2020 dated 28.10.2020 under Sections 354B/376/385 of the Indian Penal Code.

And

In the matter of: **Debasish Sengupta @ Debashish Sengupta**

..... Petitioner

Mr. Dipak Sengupta, Senior Advocate

Mr. Atarup Banerjee, Advocate

Mr. Mrityunjay Chatterjee, Advocate

.....for the Petitioner

Mr. Sudipto Moitra, Senior Advocate

Mr. Ayan Bhattacharjee, Advocate

Mr. Md. Zainab Rauf, Advocate

.....for the de facto complainant

Mr. Bivas Chatterjee, Advocate

.....for the State

This is an application for an anticipatory bail filed by the petitioner under Section 438 of the Code of Criminal Procedure in connection with Bidhannagar North Police Station Case No. 169 of 2020 dated 28.10.2020 under Sections 354B/376/385 of the Indian Penal Code.

It is submitted by the learned Advocate for the petitioner that the petitioner has been falsely implicated in connection with the instant case and in fact the present case has been lodged as a counter case to the writ-petition filed by the petitioner alleging police atrocities. The petitioner is an Art teacher and claimed to have been specialized in anatomy art and was engaged by the father of the victim girl to impart education in such field as the victim girl aspired to pursue her career therein.

The allegation of molestation and sexual assault have been concocted to ruin the future career of the petitioner and despite the petitioner having cooperated with the investigation, he has not been informed of the content of the allegations and even his mobile phone was taken by the police authorities without following the procedures thereto. It is further submitted that the petitioner cooperated with the

Investigating Officer in providing all the necessary information and details as and when asked for and is now apprehending arrest because of the indifferent and partisan attitude of the Investigating Officer in connection with the instant case.

On the other hand, the learned Advocate appearing for the State submits that there is a serious allegation levelled against the accused as corroborated by the victim girl in the statements recorded under Sections 161 and 164 of the Code of Criminal Procedure. The inimical evidences have been unearthed during the investigation and the photographs in hard copy were also submitted at the behest of the victim girl, which corroborates the allegations levelled against the accused. It is further submitted that the mobile phone belonged to the accused was taken by the Investigating Officer but the data stored therein could not be retrieved as the said mobile phone is protected by a password which has not been disclosed by the accused as on date. It is submitted that the standard operating procedure followed by the Central Forensic Science Laboratory requires the mobile phone protected by password to be provided with the password and since the same has been suppressed, the Investigating Officer is not in a position to send the phone for collation of the data stored therein. He thus strongly opposes the prayer for anticipatory bail.

Though the victim girl is also represented but we feel that the submissions advanced by the accused as well as the State are sufficient for considering the prayer for anticipatory bail.

The plea of delayed FIR has been taken by the petitioner to percolate a sense that the allegations are afterthought and tainted with malice. The photographs revealed during the investigation are also annexed with the case diary submitted by the State, which appears to be too alarming. The allegations as it stand of now is of serious nature and have immense impact in one's life. The investigation is still in progress and if the State feels that incriminating documents and the

evidences can be gathered upon interrogation of the accused we do not feel that it is a fit case where the accused/petitioner should get the privilege of anticipatory bail at this stage.

The application being **CRM 11170 of 2020** for anticipatory bail is thus **rejected**.

(Harish Tandon, J.)

(Kausik Chanda, J.)