

05.08.2021

Court No.28
Item No.26
(ALLOWED)

Saswata

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

(Via Video Conference)

CRM 724 of 2021

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with Sahebganj Police Station Case No. 102 of 2021 dated 20.03.2021 under Sections 448/376/506 of the Indian Penal Code, 1860;

And

In the matter of : **Arjun Sarkar**

...Petitioners

Mr. Ratan Chandra Roy

...For the Petitioner

Mr. Abhijit Sarkar

Mr. Tapan Bhattacharjee

...For the State.

The Advocate-on-record of the petitioner undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking, the application is taken up for hearing.

Apprehending arrest in connection with Sahebganj Police Station Case No. 102 of 2021 under Sections 448/376/506 of the Indian Penal Code, the petitioner has filed the instant application for anticipatory bail under Section 438 of the Code of Criminal Procedure.

The learned Advocate for the petitioner submits that the petitioner has a love affair with the victim lady and has been implicated in connection with the instant case without any reason as such.

The State opposes the prayer for bail and submits that there is prima facie disclosure of the commission of an offence by the petitioner which would be evident from the statement of the victim lady recorded under Section 161 of the Code of Criminal Procedure.

After hearing respective submissions and upon perusal of the materials from the case diary, we find disparity in the statement of the victim recorded under Sections 161 and 164 of the Code of Criminal Procedure. The statement recorded under Section 164 of the Code of Criminal Procedure at the later point of time does not instill confidence in us that there is disclosure of an element required under Section 376 of the Code of Criminal Procedure. Hence, the prayer for anticipatory bail of the petitioner is ***allowed***.

Accordingly, we direct that in the event of arrest, the petitioner shall be released on bail upon furnishing a bond of ₹10,000/- (Rupees Ten Thousand only) with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer and shall meet the Investigating Officer as and when called for and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

The application for anticipatory bail being CRM 724 of 2021 is, thus, ***disposed of.***

(Harish Tandon, J.)

(Bibek Chaudhuri, J.)