

10. 13.08.2021

Ct.32

Tanmoy

Allowed

**In The High Court at Calcutta
Circuit Bench at Jalpaiguri
Appellate Side**

(Through Video Conference)

C.R.M. 802 of 2021

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on **03/08/2021** in connection with **Dhupguri Police Station Case No. 189 of 2021** dated **20/05/2021** under Sections **342/376(2)(n)/506/34** of the Indian Penal Code.

And

In the matter of: - **Subhas Roy**

....petitioner.

Mr. Arnab Saha

...for the petitioner (through V.C.).

Mr. Ujjwal Luksom,
Mr. Tapan Bhattacharjee

...for the State (through V.C.)

The allegation against the petitioner is, *inter alia*, under Section 376(2)(n) of the Indian Penal Code. The petitioner submits that there was an extra-marital affair between the petitioner and the *de facto* complainant and on refusal of the petitioner to marry the *de facto* complainant, the complaint was lodged on false allegations. The *de facto* complainant is a married lady aged about 42 years. The petitioner is 40 years old

Learned Counsel for the State opposes the prayer for anticipatory bail and refers to the statement of the *de facto* complainant under Section 164 of the Code of Criminal Procedure.

We have considered the material in the Case Diary. The *de facto* complainant is a major and is supposed to be aware of the consequences of her alleged relationship with the petitioner. Though, it is stated that the petitioner took her to a rented house and confined her therein for about four days, there is no *prima facie* material on record in support of such allegation. Investigation is in progress.

Having considered the material available in the Case Diary and the extent of involvement of the petitioner in the alleged offence as also the nature of the allegations, though investigation is in progress, we are inclined to hold that immediate custodial interrogation of the petitioner may not be necessary so long as he co-operates with the Investigating Officer.

Accordingly, 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 of whom must be local, to the satisfaction of the arresting officer and shall abide by the conditions laid down in Section 438(2) of the Code of Criminal Procedure and on further condition that the petitioner shall meet the Investigating Officer once every fortnight.

In case the petitioner fails to adhere to any of the conditions mentioned in Section 438(2) of the Code, the learned Court below shall be entitled to cancel the anticipatory bail without further reference to this Court.

The application for anticipatory bail being C.R.M. 802 of 2021 is, thus, disposed of.

All parties shall act in terms of server copy of this order downloaded from the official website of this Court.

(Suvra Ghosh, J.)

(Arijit Banerjee, J.)