

28.01.2022
Ct. No. 32
39
sdas

C. R. M. (A) 52 of 2022
[via video conferencing]

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure :

And

In Re: *Gaurav Kumar Tiwary*

... .. Petitioner

Mr. Satadru Lahiri

... .. for the petitioner

Mr. Prasun Kumar Dutta, learned APP

Mr. Subrato Roy

... .. for the State

Apprehending arrest in connection with Belur Police Station Case No. 293 of 2021 dated 29.12.2021 under Sections 376/417 of the Indian Penal Code, 1860, this application has been preferred.

Mr. Lahiri, learned advocate appearing for the petitioner, submits that both the petitioner and the victim are aged about 22 years. There was a love relationship between them. The ingredients of Sections 376/417 of I.P.C. are not attracted against the petitioner. In the said conspectus, custodial interrogation may not be necessary.

Mr. Roy, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to the statement of the victim girl as recorded under Section 164 as well as other documents in the case diary.

Prima facie, it appears from the statement of the victim girl, as recorded under Section 164, is exonerative in nature. In view thereof and as the relationship appears to be consensual in nature and was continuing for a period of about two years, we are of the opinion that custodial interrogation of the petitioner is not necessary.

Accordingly, we allow this application and direct that in the event of arrest, the petitioner, namely, *Gaurav Kumar Tiwary*, 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 a local, to the satisfaction of the Arresting Officer and also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 with a further condition that the petitioner shall meet the investigating officer once a fortnight till investigation is complete.

It is further directed that the petitioner shall attend the learned court below on all the dates as specified for hearing and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to comply with the aforesaid directions without any justifiable cause, the learned court below would be at liberty to cancel his bail, in accordance with law, without any further reference to this court.

The application for anticipatory bail, being CRM (A) 52 of 2022 is, thus, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)