

CRM(A) No.155 of 2022

Via video conference

04.02.22

(S.R.)

Sl.31

Ct.32

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Gazole** Police Station Case No.829 of 2021 dated 02/11/2021 under Sections 417/376/323/308/34 of the Indian Penal Code;

And

In re: Utpal Kumar Sarkar

... petitioner.

Mr. Imitaz Ahmed
Mrs. Ghazala Firdaus
Mr. Mofakkerul Islam
Mrs. Smita Saha
Mr. Sk. Saidullah
Ms. Arunima Mukhopadhyay
Mr. Debopam Roy
Mr. Md. Muntakhab

... for the petitioner.

Mr. Subrato Ray
Mr. Amarendra Chakraborty
Mr. Tonmay Chatterjee
Mr. S.S. Roy
Mr. S. Mandal

... for the *de facto* complainant.

Mr. Narayan Prasad Agarwala
Mr. Saryati Dutta

... for the State.

Mr. Ahmed, learned advocate appearing for the petitioner submits that the petitioner is an Assistant Teacher in a high school. He has been falsely implicated by the victim, who is presently 25 years of age. The petitioner and the victim had a consensual relationship and the victim being an adult was aware of the consequences thereof. In the said conspectus, custodial interrogation may not be necessary.

Mr. Agarwala, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to several documents in the case diary including the statement of the victim lady, as recorded under Section 164 of the Code. Answering our query, he submits that the victim lady refused medical.

Mr. Ray, learned advocate appearing for the *de facto* complainant

opposes the petitioner's prayer and submits that the victim lady had been misled by the petitioner. After the complaint was lodged she and her family members were also threatened.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

Prima facie, it appears that there was a free mixing between the parties. Whether such free mixing was actuate with dishonest intention from the inception is an issue to be assessed at the appropriate stage of the trial. Considering the nature of accusations and the possible extent of complicity of the petitioner in the alleged offence, we are of the opinion that custodial interrogation is not necessary. However, the petitioner's movement needs to be restricted.

Accordingly, we direct that in the event of arrest the petitioner will 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 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 not enter the jurisdiction of Gazole Police Station save and except for meeting with the investigating officer of the case once in a week till the investigation is complete.

He shall intimate the address where he would be residing to the investigating officer immediately.

He shall also not contact the victim lady or her family members directly or over telephone or mobile or electronic media, in any manner whatsoever.

It is further directed that the petitioner shall not intimidate the

witnesses or tamper with evidence in any manner whatsoever and shall attend the learned trial court on all the dates as specified for hearing.

It is made clear that in the event the petitioner fails to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel his bail without any further reference to this Court.

The application for anticipatory bail being CRM(A) No.155 of 2022 is, accordingly, 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.)