

10.03.2022

Court No.32

BM/Sl. No.150

CRM (A) 256 of 2022

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

And

In Re: Khabir Sk. @ Sk. Khabir

- Petitioner

Mr. Ali Ahsan Alamgir

Mr. Atarul Hoque Molla

Ms. Riya Das

Mrs. Rabia Khatun

... for the Petitioner.

Mr. Sudip Kumar

... for the State.

Apprehending arrest in connection with English Bazar Police Station Case No.530 of 2018 dated 31.05.2018 under Sections 448/376/506 of the Indian Penal Code, the petitioner has filed the present application, praying for anticipatory bail.

Learned advocate appearing for the petitioner submits that there was a hot altercation between the parties pertaining to repayment of a loan amount and the petitioner has been falsely implicated. The allegations are unfounded and upon completion of investigation charge sheet has also been submitted. There is also no explanation as regards the delay in lodging the First Information Report about 54 days after alleged incident.

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 161 of the Code.

Answering our queries, he submits that no statement was recorded by the victim under Section 164 of the Code and she also refused medical examination.

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

It appears from the records that the petitioner refused medical examination and also did not record her statement under Section 164 of the Code. Taking note of such fact and considering the nature of accusations and the possible extent of complicity of the petitioner in the alleged offence, we are of the opinion that his custodial interrogation is not necessary, more so when completion of investigation and charge sheet has been submitted.

Accordingly, we are inclined to allow the present application for anticipatory bail and direct that in the event of arrest, the petitioner, namely, **Khabir Sk. @ Sk. Khabir** shall be released on bail upon furnishing a bond of Rs.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 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

The petitioner shall attend the learned court below on all the dates as specified herein.

It is further directed that the petitioner shall not tamper with the evidence and/or intimidate the witnesses.

In the event the petitioner fails to comply with the aforesaid directions, without any justifiable cause, the Learned Court below

shall be at liberty to his bail, in accordance with law, without further reference to this Court.

The application for anticipatory bail, being CRM (A) 256 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.)