

CRM(A) No.457 of 2022

Via video conference

01.03.22

(S.R.)

Sl.55

Ct.32

Allowed

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Murshidabad** Police Station Case No.689 of 2020 dated 02/12/2020 under Sections 406/370 of the Indian Penal Code;

And

In re: Solehin Sk.

... petitioner.

Ms. Minoti Gomes

... for the petitioner.

Ms. Kum Kum Mitra

...for the State.

Ms. Gomes, learned lawyer appearing for the petitioner submitted that the present petitioner is second husband of the victim lady. The allegation is false and frivolous without having any support of material document or any other materials. Since, charge sheet has been filed custodial interrogation of the present petitioner is not necessary. Accordingly, she prayed for anticipatory bail on any stringent condition.

Per contra, Ms. Mitra, learned lawyer appearing for the State submitted that the allegation is very grave and serious against the present petitioner. There are incriminating elements in the case diary. Accordingly, she opposed the bail application.

We have heard rival submissions and perused the case diary, particularly the statement of the victim girl recorded under Section 164 as well as the statements of the other witnesses recorded under Sections 161 of the Code of Criminal Procedure. Certain inconsistencies came to our notice in the statements of the witnesses as well as the victim. The victim alleged rape by unknown persons while she lived with the present petitioner in a rented house leading conjugal life but those were not reported nor is there any medical document corroborating the allegation. Since the charge sheet has been filed, custodial detention is not necessary.

Accordingly, considering the extent of incriminating elements, complicity of the present petitioner and other materials on record, we are inclined to allow anticipatory bail on 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 attend the learned court below on all the dates, as specified for hearing.

It is further directed that the petitioner shall not intimidate the witnesses or tamper with evidence in any manner whatsoever.

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.457 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.)