

CRM (A) 675 of 2022
(via video conference)

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

In the matter of : **Bijay Mandal**

..... petitioner

Mr. Amitabha Karmakar
Mr. Arup Kumar Bhowmick

.....For the petitioner

Ms. Ratna Ghosh

.....For the State

Apprehending arrest in connection with Manikchak Police Station Case No. 504 of 2021 dated 08.12.2021 under Sections 417/376 of the Indian Penal Code, the present application has been preferred.

Mr. Karmakar, Learned Lawyer appearing for the petitioner submitted that the present petitioner and the victim – both are major and relationship was consensual. He also submitted that the present Petitioner is ready and willing to marry the victim, but the victim herself is not willing. In view of that position, that the victim was ravished on representation of marriage, the allegation becomes unsubstantiated. According to him, even though investigation is pending, custodial detention is not necessary and accordingly, anticipatory bail is prayed for.

Per contra, Ms. Ghosh, Learned Lawyer appearing for the State submitted that the statements of the victim are incriminatory against the present Petitioner. She submitted a statement of the victim made subsequently addressed to

the Inspector-in-Charge of the concerned police station, where it is clarified that she is not willing to marry the present Petitioner although she alleged rape.

We have heard rival submissions. Perused the Case Diary.

It appears that both are major. From the statement of the victim recorded under Section 164 of the Cr.P.C., it appears that victim had physical relationship with the petitioner on representation of marriage. We have also find in the Case Diary a notice on marriage. It appears from the materials in the case diary that the present Petitioner has taken the initiative to marry the victim. Without commenting anything on the merit of the case, on appreciating the materials on record, extent of incriminating elements and complicity of the present Petitioner, we are of the opinion that custodial detention is not necessary.

Accordingly, we allow this application and direct that in the event of arrest the petitioner, namely, **Bijay Mandal** 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 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 with further condition that the Petitioner shall not reside in Manikchak Police Station till further orders and shall intimate his new address to the Officer-in-Charge of the said Police Station. He will not enter

into Manikchak Police Station except for meeting the Investigating Officer once in a week.

It is further directed that the petitioner shall not tamper with the evidence and/or intimidate the witnesses. He shall also attend learned Court below on all the dates, as specified for hearing.

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 cancel his bail, in accordance with law, without further reference to this Court.

The application for anticipatory bail, being CRM (A) 675 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.)