

10.03.2022
Court No.13
Item No.7
AP

WPA 4155 of 2022

Shikha Mukherjee

Vs.

The State of West Bengal and Ors.

(Through Video Conference)

Mr. Rajdeep Mazumder

Mr. Mayukh Mukherjee

Mr. Pritam Roy

Ms. Radhika Agarwal

... For the Petitioner.

Mr. Amitesh Banerjee, Senior Advocate

Ms. Ipsita Banerjee

... For the State.

Mr. Chinmoy Pal

Mr. Sourav Mondal

... For the Respondent No.7.

The writ petition challenges proceedings initiated by the Salboni Police Station in respect of FIR No.38 of 2022 dated 16.02.2022 under Sections 417/376/313/506 of the Indian Penal Code.

The writ petitioner is the mother of a medical doctor who is stated to have entered into a relationship with the de facto complainant. A promise to marry did not materialize and hence the charges.

This Court is not inclined to go into the details of the complaint at this stage.

The petitioner submits that her son cannot apply for bail before the Sessions Court and has moved the High Court under Article 226 to challenge unlawful denial of rights under Article 21 of the Constitution. The petitioner was arrested on 22nd February 2022.

The Officer-in-Charge, Salboni Police Station is present in Court along with the case diary.

Having considered the materials on record, this Court is of the view that the petitioner's remedy would lie under Section 439 of the CrPC and/or under Section 482 of the CrPC. The statements of seventeen witnesses have been recorded under Section 161 of the CrPC and most of the offensive materials have been seized. The physical relationship between the parties has admittedly occurred on a promise of marriage. A case under Article 226 has been made out.

The accused Dr. Anirban Mukherjee shall be enlarged on liberty only for a period of ten days from date.

It is made absolutely clear that in the event any of the offensive materials that have been found in the devices seized from the petitioner or any other place or form, or if any further material relating to the de facto complainant and the petitioner, comes out in public in any form and even if found available with any single third person, the liberty of the petitioner shall cease and the petitioner shall be taken back into custody.

The petitioner shall apply for regular bail under Section 439 of the CrPC before the appropriate forum and the said application shall be dealt with on its own merits uninfluenced by any observation made hereinabove.

It is also made clear that in the event any of the witnesses whose statements have been recorded by the

Investigating Officer are sought to be influenced by the petitioner the liberty of the petitioner shall come to an end and he shall be taken into custody.

The petitioner shall cooperate with the investigation as and when summoned by the Investigating Officer.

The petitioner shall hand over her son's laptop or any other device in his custody, as may be required by the Investigating Officer for the purpose of aforesaid investigation.

Bond for the liberty as indicated above may be furnished before the learned Chief Judicial Magistrate, Paschim Medinipur.

With the aforesaid observations, the writ petition is disposed of.

There shall be no order as to costs.

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

(Rajasekhar Mantha, J.)