

25.03.2022
tkm/ct 28
sl no. 7

C.R.M.(A) 1380 of 2022

In Re : An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Palashipara P.S case no. 97 of 2022 dated 15.3.2022 under sections 417/376/325/307/34 of the IPC
And

Allowed

In Re : Najbul Shaikh	 petitioner
Mr. Asraf Mandal	 for the petitioner
Mr. Arijit Gnguly	
Mr. S K Dan	 for the State
Mr. Atis Kr. Biswas	
Mr. Amit Singh	
Mr. Jyoti Agarwal	 for the de facto complainant

It is submitted on behalf of the petitioner that the victim lady was major at the time of cohabitation. There was consensual relationship between the parties and ingredients of the offence punishable under section 376 are not disclosed in the facts of the case.

Learned lawyer for the State opposes the prayer for bail.

Learned lawyer for the de facto complainant submits that the petitioner had suppressed his prior marriage and induced the victim lady to cohabit with him.

We have considered the materials in the case diary. We note that victim was major at the time of cohabitation. Statement of the victim lady recorded under section 164 Cr.P.C and the conversation in the social media platform do not show that the petitioner had made any false representation with regard to his marital status. No material is placed on record to show the petitioner had a previous marriage.

On the other hand it is contended on behalf of the petitioner that they have subsequently married.

In view of the aforesaid facts, we are of the opinion though custodial interrogation of the petitioner is not necessary but, he requires to cooperate with the investigating agency in accordance with law.

Accordingly, we direct that in the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/- with two sureties of like amount each, to the satisfaction of the Arresting Officer and also be subject to the conditions as laid down under section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioner while on bail shall meet the investigating officer once in a week until further orders and that the petitioner shall appear before the court below and pray for regular bail within four weeks from date.

The application being CRM(A) 1380 of 2022 is disposed of.

(Bivas Pattanayak, J.)

(Joymalya Bagchi, J.)