

30.03.2022

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Ct. No. 29

KAUSHIK

Allowed

C.R.M.(A) 1458 of 2022

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Thakurpukur** Police Station Case No. **139** of **2021** dated **31.07.2021** under Sections 498A/406/354/354B/323/376/34 of the Indian Penal Code, 1860 read with Sections 3/ 4 of the Dowry Prohibition Act.

And

In Re : Vivekananda Hazra

..... petitioner

Mr. Sourav Chatterjee

Mr. Aditya Tiwary

....for the petitioner

Mr. N. P. Agawrala

Mr. S. Banerjee

....for the State

Petitioner seeks anticipatory bail.

Learned advocate appearing for the petitioner submits that, the petitioner was falsely implicated. The de-facto complainant initiated a proceeding under Section 156(3) of the Code of Criminal Procedure (Cr.P.C.), whereupon the present police complaint was lodged. The petition before the Magistrate did not contain any allegation relating to the provisions of Section 376 of the Indian Penal Code (IPC) against the petitioner or as against any person at all. Thereafter, the victim proceeded to record a 164 Cr.P.C. statement, where for the first time she introduces the element of Section 376 IPC. It is

thereafter the police applied for adding Section 376 IPC in the police complaint.

Learned advocate appearing for the State draws the attention of the Court to the 164 Cr.P.C. statement of the victim.

The application filed by the de-facto complainant before the learned Magistrate under Section 156(3) Cr.P.C. is on record. It does not disclose any element of the allegations of rape as sought to be introduced in the 164 Cr.P.C. statement of the victim although the application under Section 156(3) Cr.P.C. narrates in details as to how the de-facto complainant derived the knowledge of the offence committed.

Considering the gravity of the offence and the involvement of the petitioner therein and considering the contents of the petition under Section 156(3) Cr.P.C. filed by the de-facto complainant and the 164 Cr.P.C. statement of the victim, we grant anticipatory bail to the petitioner.

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 shall meet the Investigating Officer once in a fortnight till the conclusion of the investigation and on condition that the petitioner shall appear every day before the jurisdictional Court

on and from the date fixed for appearance of the accused and in default the jurisdictional Court will pass appropriate order to secure the presence of the petitioner in Court including cancelling the anticipatory bail granted without further reference to this Court.

This application for anticipatory bail is, thus, allowed.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)