

28.04.2022

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Ct. No. 29

KAUSHIK

Allowed

C.R.M.(A) 1940 of 2022

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Palashipara** Police Station Case No. **140** of **2022** dated **13.04.2022** under Sections 498A/376/34 of the Indian Penal Code, 1860.

And

In Re : Robiul Hosen Sekh & Ors.

..... petitioners

Ms. Minoti Gomes

....for the petitioners

Mr. Bidyut Kumar Roy

Ms. Sima Biswas

....for the State

Leave granted to the learned advocate appearing for the petitioner to correct the cause title.

Petitioners pray for anticipatory bail.

Learned advocate appearing for the petitioners submits that, the husband is in custody. The police complaint was lodged one year after the incident. The present complaint was started pursuant to the order passed by the Magistrate under Section 156(3) of the Code of Criminal Procedure (Cr.P.C.). She submits that, the de-facto complainant was not residing at her matrimonial home. There is an application for restitution of conjugal rights pending. She refers to the writing dated August 17, 2021 by which, the husband of the de-facto complainant

issued a notice upon the de-facto complainant for restitution of conjugal rights.

Learned advocate appearing for the State draws the attention of the Court to the 164 Cr.P.C. statement of the victim and the materials in the case diary.

In her 164 Cr.P.C. statement, the de-facto complainant states that the petitioner no. 4 ravished her. The date of incident is not mentioned in her statement. There are materials produced before this Court to suggest that the de-facto complainant was not residing at her matrimonial home for a considerable period of time. There is no medical evidence corroborating the claim of the de-facto complainant as against the petitioner no. 4.

Considering the gravity of the offence and the involvement of the petitioners therein as transpiring from the materials in the case diary, we grant anticipatory bail to the petitioners.

Accordingly, we direct that in the event of arrest the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- each, 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 nos. 1 (Robiul Hosen Sekh) and 4 (Nazmul Haque) shall meet the Investigating Officer once in a fortnight till the conclusion of the investigation and petitioner nos. 2

(Jabunnisha Bibi @ Jabunnisha Begum) and 3 (Mamataz Khatun) shall cooperate with the Investigating Officer till the conclusion of the investigation and on condition that the petitioners 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 petitioners 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.)