

11.05.2022

Sl. 07
Court No.29
suvayan
(Allowed)

CRM (A) 2071 of 2022

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Kasba** P.S. Case No. **117 of 2022** dated **11/04/2022** under Sections **323/324/325/354/34/506** of the Indian Penal Code, 1860 read with Section **4** of the POCSO Act, 2012.

And

In the matter of: Nesar Ali Khan & Ors.

....petitioners.

Mr. Kallol Mondal
Mr. Krishan Ray
Mr. Souvik Das
Mr. A. Banerjee

...for the petitioners.

Mr. Avishek Sinha

...for the State.

Mr. Angshuman Chakraborty
Mr. S. K. Humayun Kabir

...for the de facto complainant.

Petitioners seek anticipatory bail.

Learned Advocate appearing for the petitioners submits that the petitioners were falsely implicated. The dispute essentially is with regard to an immovable property. A gift deed was executed and registered by reason which the incident arose. All the petitioners were falsely implicated.

Learned Advocate appearing for the State draws the attention of the Court to the materials in the case diary including the statement of the victim recorded under Section 164 of the Criminal Procedure Code. He submits that during the investigation, it transpired that a child of 12 years old was also molested and, therefore, the necessity of recording the statement of such victim recorded under Section 164 of the Criminal Procedure Code arose. He refers to such statement.

Learned Advocate appearing for the de facto complainant submits that the husband of the de facto complainant also suffered injuries and that he was admitted in the hospital. He refers to the medical documents of such admission.

The statement of the victim recorded under Section 164 of the Criminal Procedure Code who is 12 years of age, narrates an incident of a free fight. She also narrates that she was sexually assaulted during such free fight.

The free fight that the victim narrates in her statement recorded under Section 164 of the Criminal Procedure Code occurred in presence of a number of persons involving both the sides.

There is a registered deed of gift also.

The husband of de facto complainant suffered injuries.

Prima facie, it appears that there was a free fight between the private parties.

In such context, considering the gravity of the offence and the involvement of the petitioners therein and considering the fact that the probability of the petitioners being falsely implicated with the heinous crime as alleged cannot be discounted at this stage, 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/- (Rupees Ten Thousand Only) each with two sureties of like amount each, 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 and on condition that

the petitioners will report before the Investigating Officer once in a fortnight 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.

Accordingly, the prayer for anticipatory bail of the petitioners is allowed.

CRM (A) 2071 of 2022 is, thus disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)