

09.09.2022

Sl.4

Court No.29

(AD)

(Allowed)

C.R.M. (A) 4312 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. **306** of **2022** dated **25.08.2022** under Sections **366/376** of the Indian Penal Code.

And

In the matter of: **Uttam Sk.**

....petitioner.

Mr. Bibaswan Bhattacharya

Mr. Asraf Mandal

...for the petitioner.

Mr. Shiladitya Banerjee

...for the State.

Mr. Priyankar Ganguly

... for the de facto complainant.

Petitioner prays for anticipatory bail.

Learned Advocate appearing for the petitioner submits that the petitioner and the de facto complainant are married. He refers to the marriage certificate. He submits that the petitioner filed a proceedings for restitution of conjugal rights prior to the lodgment of the police complaint. He contends that the police complaint was filed as a counterblast to such restitution proceedings.

Learned Advocate appearing for the State draws the attention of the Court to the materials in the case diary including the statement of the de facto complainant recorded under Section 164 of the Code of Criminal Procedure.

The de facto complainant is represented.

On the previous date, after considering the statement of

the de facto complainant recorded under Section 164 of the Code of Criminal Procedure, request was made to the police to submit the mobile tower location of the two contesting parties. Pursuant to such desire of Court, report is submitted in Court today dated September 8, 2022 which be taken on record.

The report shows that the petitioner was in Nadia at the material point of time. The statement of the de facto complainant recorded under Section 164 of the Code of Criminal Procedure narrates an incident of Maharashtra at the material point of time when the petitioner being present thereat. Mobile tower location of the petitioner does not suggest that the petitioner was in Maharashtra as claimed by the de facto complainant in her statement recorded under Section 164 of the Code of Criminal Procedure.

In such circumstances, we deem it appropriate to 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/- (Rupees Ten Thousand Only), 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 petitioner will report before the Investigating Officer as and when called for till the conclusion of the investigation and on condition that the petitioner shall appear on every date 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.

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

C.R.M. (A) 4312 of 2022 is, thus, disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

