

24.02.2022
Item no.229
Court No.32
Avijit Mitra

C.R.M. 9004 of 2021

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with Tiljala Police Station Case No.258 of 2021 dated 31.08.2021 under Sections 376/417/506 of the Indian Penal Code.

And

In Re : Md. Shoel

.... petitioner

Ms. Farnaz Nasim

....for the petitioner

Mr. Sandip Chakraborty

....for the State

Ms. Nasim, learned lawyer appearing for the petitioner submitted that the relationship between the petitioner and the victim was a consensual one. Both are major. Initially there was engagement between the petitioner and the victim in presence of the family members of the petitioner which was subsequently denied by the present petitioner's family. No elements are there to implicate the present petitioner in the alleged offence since the relation was consensual and there was no intention of the petitioner to deceive the victim. Accordingly, she prayed for anticipatory bail on any stringent condition.

Per contra, learned lawyer appearing for the State Mr. Chakraborty submitted, that the statement of the victim recorded under Section 164 of the Code of Criminal Procedure and the medical report are incriminatory against the present petitioner. Investigation is pending. Therefore, anticipatory bail

should not be granted at this stage as custodial detention may be necessary.

We have heard the rival submissions of the parties and perused the case diary.

It appears from the materials on record particularly, from the statement of the victim recorded under Section 164 of the Code of Criminal Procedure that both are major and they had a consensual relationship. An engagement between them initially was discussed between the family members and agreed upon, but the mother of the present petitioner subsequently, scrapped it. We have also perused the medical report. On perusal of the case, we do not think that custodial interrogation is necessary even investigation is pending. Accordingly, considering the extent of the petitioner's complicity in the alleged offence, extent of incriminating materials against the petitioner, we are inclined to allow the prayer for anticipatory bail.

Accordingly, we direct that in the event of arrest, the petitioner namely, **Md. Shoel**, 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 with a further direction that the petitioner shall meet the Investigating Officer twice a week till investigation is complete.

The petitioner shall attend the learned Trial Court on all the dates as specified for hearing.

The petitioner shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner fails to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel the petitioner's bail without any further reference to this Court.

The application for anticipatory bail being C.R.M. 9004 of 2021 is disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)