

19.09.2022

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Ct. No. 29

KAUSHIK

Allowed

C.R.M.(A) 4461 of 2022

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Suri** Police Station Case No. **381** of **2022** dated **16.08.2022** under Sections 450/420/354/376/511/506 of the Indian Penal Code, 1860.

And

In Re : Moulana Motiur Rahaman

..... petitioner

Mr. Sujoy Sarkar

....for the petitioner

Mr. Debabrata Chatterjee

Ms. Mousumi Sarkar

....for the State

Petitioner prays for anticipatory bail.

Learned advocate appearing for the petitioner submits that, the petitioner was 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 Code of Criminal Procedure (Cr.P.C.), the 161 Cr.P.C. statement of the husband of the victim thereof as well as the 161 Cr.P.C. statement of the villagers.

The victim complains that the incident occurred around about 1.30 a.m. in the night at her house. The incident was allegedly witnessed by her husband. There is no material in the case diary of any independent person witnessing such incident.

Statement of post occurrence witness is also absent in the case diary.

The 161 Cr.P.C. statement of the villager spoken of in the case diary claims that, he heard about the incident from some other persons. They are neither any eye witnesses of the incident nor any post occurrence eye witness.

In such circumstances, the issue of false implication cannot be overlooked at this stage. Consequently, 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 a fortnight 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.

This application for anticipatory bail is, thus, allowed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)