

31.10.2022

Sl.17
Court No.29
(AD)
(Allowed)

C.R.M. (A) 4635 of 2022

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Tapan** Police Station Case No. **433 of 2022** dated **12.08.2022** under Section **506** of the Indian Penal Code read with Section **18** of the POCSO Act.

And

In the matter of: **Abdul Malek @ Abdul Malek Sarkar**
....petitioner.

Mr. Rejaul Alam
Mr. Pankar Halder
Mr. Subhendu Bhattacharjee
...for the petitioner.

Mr. Prasun Kumar Datta, Ld. APP
Mr. Nirupam Dhali
...for the State.

Petitioner prays for anticipatory bail.

Learned Advocate appearing for the petitioner submits that the petitioner was elected as the 'Secretary' of the Managing Committee of a Madrasha. The petitioner is sought to be falsely implicated by the present police complaint.

Learned Advocate appearing for the State draws the attention of the Court to the materials in the case diary and in particular the statement of the victim recorded under Section 164 of the Code of Criminal Procedure as also the statement of the father of the victim recorded under Section 164 of the Code of Criminal Procedure. He refers two statements under Section 161 of the Code of Criminal Procedure of the neighbours. He

contends that the petitioner is a habitual offender and that the petitioner is guilty of the same incident in the past.

The fact that the petitioner was elected as the 'Secretary' of the Managing Committee of a Madrasha at this stage remains undisputed. The victim is 14 years of age. She narrates an incident allegedly occurring on August 11, 2022 in the early hours of the morning. Apparently, there are no eye-witnesses. There are no pending police cases as against the petitioner. Learned Advocate for the State is unable to draw the attention of the Court to any of such police case. The issue of false implication cannot be ruled out at this stage given the election of the petitioner to the post of the 'Secretary' of a Madrasha.

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 once a month 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) 4635 of 2022 is, thus, disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)