

09.11.2022

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Ct. No. 29

**KAUSHIK
REJECTED**

C.R.M.(A) 5093 of 2022

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Bhupatinagar** Police Station Case No. **388** of **2022** dated **12.10.2022** under Sections 448/354A/354B/376/511/509/506 of the Indian Penal Code, 1860.

And

In Re : Pradip Maity

..... petitioner

Mr. Amitava Karmakar

Mr. Arup Kumar Bhowmik

....for the petitioner

Mr. Saibal Bapuli

Mr. Soumik Ganguly

....for the State

Petitioner prays for anticipatory bail.

Learned advocate appearing for the petitioner submits that, the de-facto complainant implicated the petitioner in an earlier police complaint, inter alia, under Section 498A of the Indian Penal Code where, the petitioner was taken into custody and was untimately enlarged on bail. He submits that, there was an incident between the two parties whereupon the petitioner lodged a general diary in the month of June, 2022. In such incident, the de-facto complainant threatened the petitioner that the de-facto complainant will implicate the petitioner in such a case that the petitioner will remember the de-facto complainant for ever. He submits that, the petitioner in the present case was falsely implicated.

Learned advocate appearing for the State draws the attention of the Court to the materials in the case diary. He refers to the statement of the victim recorded under Section 164 of the Code of Criminal Procedure (Cr.P.C.), the medico legal examination report of the victim as also to the initial noting in a writing dated October 12, 2022.

The police complaint speaks of an incident occurring in the night of October 9, 2022. Apparently, the police complaint was registered on October 12, 2022. The de-facto complainant was examined by the Medical Officer of the Rural Hospital where, the Medical Officer notes that the de-facto complainant was assaulted and there were mild scratches over the right side of the upper part of the breast of the de-facto complainant. The medico legal examination of the de-facto complainant was conducted on October 9, 2022 when the doctor conducting such examination of the de-facto complainant did not find any injury.

The police complaint lodged by the de-facto complainant and the initial medical examination corroborates each other. There is a time gap between the date of the incident and the medico legal examination.

The 164 Cr.P.C. statement of the de-facto complainant implicates the petitioner.

In such circumstances, we are unable to grant anticipatory bail to the petitioner.

Accordingly, prayer for anticipatory bail of the petitioner is rejected and the application being CRM (A) 5093 of 2022 is dismissed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)