

09.11.2022
Serial no.53
Aloke

CRM (A) 5120 of 2022

In re : An Application for Anticipatory Bail under Section 438 of the Code of Criminal Procedure in connection with Hariharpara Police Station Case No. 70 of 2022 dated 18.02.2022 under Sections 376/506 of the Indian Penal Code.

-And-

In the matter of : **Mukul Sk @ MukbulSk @ Sekh**

... .. Petitioners

Ms. Minoti Gomes, Advocate

Mr. Amanul Islam, Advocate

Mr. Sourav Mukherjee, Advocate

... .. For the Petitioners

Mr. Angshuman Chakraborty, Advocate

... ..For the State

Petitioner seeks anticipatory bail.

Learned Advocate appearing for the petitioner submits that the petitioner was falsely implicated. She highlights the delay in the lodgment of the first information report.

The learned Advocate appearing for the State draws the attention to the statement of the victim recorded under Section 164 of the Code of Criminal Procedure and to the statements of the neighbours recorded under Section 161 of the Code of Criminal Procedure.

In response to a query of the Court, learned Advocate appearing for the State submits that the victim refused medical examination.

In her statement recorded under Section 164 of the Code of Criminal Procedure, the victim implicates the petitioner and states that she was ravished by the petitioner. She also states that she is economically backward and that she confided of the incident after some point of time with her mother.

There are statements recorded under Section 161 of the Code of Criminal Procedure which claims that the mother of the victim went to them and told them about the incident.

The delay in the lodgment of the first information report in respect of Section 376 of the Indian Penal Code, 1960 cannot be said to be fatal. One needs to take into consideration the economical background and the frame of the mind of the victim. The refusal to undergo medical examination will not enure to the benefit of the petitioner in view of the lapse of time between the date of the incident and the date of the lodgment of the first information report.

In view of the materials in the case diary making out a prima facie case as against the petitioner, we are unable to grant anticipatory bail to the petitioner.

Prayer for anticipatory bail of the petitioner is rejected.

CRM (A) 5120 of 2022 is dismissed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)