

CRM (A) 5559 of 2022

In re : An Application for Anticipatory Bail under Section 438 of the Code of Criminal Procedure in connection with Rajapur Police Station Case No. 246 of 2022 dated 14.09.2022 under Sections 363/365/506/376(3) of the Indian Penal Code and added Section 4 of the POCSO Act.

-And-

In the matter of : **Sk. Salman & Anr.**

... .. Petitioners

Mr. Subhasish Panchal, Advocate

... .. For the Petitioners

Ms. Z. N. Khan, Advocate

Mr. Asif Dewan, Advocate

... ..For the State

Mr. Debabrata Sardar, Advocate

... .. For the de facto complainant

Petitioners seek anticipatory bail.

Learned Advocate appearing for the petitioners submits that the petitioners were falsely implicated. The petitioners and the victim were in a relationship.

Learned Advocate appearing for the State draws the attention of the Court to the statements of the victim recorded under Section 164 of the Code of Criminal Procedure and to the other materials in the case diary.

Learned Advocate appearing for the de facto complainant submits that the victim is a minor and that a physical relationship was entered into by the petitioner with the victim.

There are two statements recorded under Section 164 of the Code of Criminal Procedure by the victim. The first statement is largely one of exoneration of the petitioner. In her first statement she claimed that she went voluntarily with the petitioners and that she married the petitioner. They were staying as husband and wife at Hyderabad. In the second statement recorded under Section 164 of the Code of Criminal Procedure she takes a different stance.

In the view of the stands taken by the victim in the two statements recorded under Section 164 of the Code of Criminal

Procedure and in view of the age of the petitioner no. 1 which is claimed to be 20 years, we are inclined to grant anticipatory bail to the petitioners.

Accordingly, we direct that in the event of arrest the petitioners 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 also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on condition that the petitioner no. 1 will report before the Investigating Officer once in a fortnight till the conclusion of the investigation and petitioner no. 2 will cooperate with the investigation till the conclusion of the investigation and on further condition that the petitioners 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 petitioners in Court including cancelling the anticipatory bail granted without further reference to this Court.

Prayer for anticipatory bail of the petitioners is allowed.

CRM (A) 5559 of 2022 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)