

05.12.2022
Serial no.17
Aloke

CRM (A) 5635 of 2022

In re : An Application for Anticipatory Bail under Section 438 of the Code of Criminal Procedure in connection with Andal Police Station Case No. 354 of 2022 dated 16.09.2022 under Sections 498A/406/323/376/506/34 of the Indian Penal Code and Section 3/4 of the D.P. Act.

-And-

In the matter of : **Abhimanyu Saha @ Abhimunya Saha & Anr.**
... .. Petitioners

Mr. Amanul Islam, Advocate
Mr. Sourav Mukherjee, Advocate
... .. For the Petitioners

Mr. Arijit Ganguly, Advocate
Mr. Sanjib Kr. Dan, Advocate
... ...For the State

Petitioners seek anticipatory bail.

Learned Advocate appearing for the petitioners submits that the petitioners were falsely implicated. The police complaint was lodged nine years after marriage. The petitioner no. 1 filed a suit for divorce being MAT Suit No. 214 of 2022 on June 17, 2022. Thereafter as a counter blast the present police complaint was lodged on September 16, 2022.

Learned Advocate appearing for the State draws the attention of the Court to the statement of the de facto complainant recorded under Section 164 of the Code of Criminal Procedure.

In her statement recorded under Section 164 of the Code of Criminal Procedure, the de facto complainant speaks of an incident of August 27, 2022 implicating the petitioner no. 2 in raping her.

There is a suit for divorce filed at the instance of the petitioner no. 1 against the de facto complainant being MAT Suit No. 214 of 2022 which is annexed to the application for anticipatory bail. Documents annexed to the petition states that such suit for divorce was filed on June 17, 2022.

The pleadings in the petition for divorce filed by the petitioner no. 1 states that there was a previous complaint by the de facto complainant under Section 498A of the Indian Penal Code being Andal P.S. Case No. 214 of 2014 dated 09.06.2014.

The matrimonial suit was filed prior to the present police complaint.

In such circumstances, the plea of false implication cannot be overlooked at this stage.

Consequently, 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 petitioners will report before the Investigating Officer once in a month 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) 5635 of 2022 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)