

CRM (A) 5798 of 2022

In re : An Application for Anticipatory Bail under Section 438 of the Code of Criminal Procedure in connection with Chakdah Police Station Case No. 411 of 2021 dated 25.08.2021 under Sections 417/376/506/34 of the Indian Penal Code read with Sections 4/17 of the Protection of Children from Sexual Offences Act, 2012.

-And-

In the matter of : **Prabir Sarkar**

... .. Petitioner

Mr. Shibaji Kr. Das, Advocate
Ms. Rupsa Sreemani, Advocate
Ms. Ankita Giri, Advocate

... .. For the Petitioner

Mr. Avishek Sinha, Advocate

... ...For the State

Petitioner seeks anticipatory bail.

Learned Advocate appearing for the petitioner submits that the petitioner and the victim were in a relationship. The relationship was not accepted by the family members of the victim. Consequently, the petitioner was abducted. The petitioner as also assaulted. A police case was lodged with regard to such incident. There is a writ petition pending with regard to such incident. The present police case is lodged to falsely implicate the petitioner.

Learned Advocate appearing for the State draws the attention of the Court to the materials in the case diary including the statement of the victim recorded under Section 164 of the Code of Criminal Procedure and the injury report and her medical examination report.

The victim in her statement recorded under Section 164 of the Code of Criminal Procedure acknowledges that there was a relationship with the petitioner for two years. She however claims that there was penetrative sexual assault as against her.

Prima facie, the medical examination report of the victim does not corroborate the claim of penetrative sexual assault. The issue of false implication cannot be overlooked also.

The mother of the petitioner was enlarged on anticipatory bail by the Coordinate Bench. There is also the issue of age of the petitioner which we take into consideration in granting anticipatory to the petitioner.

In such circumstances, we are inclined 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 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 will report before the Investigating Officer once in a week till the conclusion of the investigation and on further 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.

Prayer for anticipatory bail of the petitioner is allowed.

CRM (A) 5798 of 2022 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)