

20.10.2022

JPD-5

Court No.28

S. Banerjee

S. Bhar

C.R.M. (A) 611 of 2022

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Kotwali** Police Station Case No.**944 of 2022** dated **21.08.2022** under Sections **417/376(ii)(a)** of Indian Penal Code.

And

In the matter of: **Rajib Das**

....petitioner

Mr. Nilendra Narayan Roy

...for the petitioner

Mr. Aditi Shankar Chakraborty

Mr. Tapan Bhattacharjee

...for the State.

Learned advocate for the petitioner has prayed for bail relying on the statement made in the written complaint by the defacto-complainant/prosecutrix. It is submitted by the learned advocate for the petitioner that both the petitioner and the victim are major and they had love relationship. The case of the defacto-complainant is that on promise of marriage, there was physical relationship between the victim and the petitioner. Since the victim is a consenting party, he may be granted anticipatory bail.

Learned Public Prosecutor-in-charge on the other hand has raised objection against the prayer for bail, specially relying on the statement made by the defacto-complainant in her statement under Section 164 of the Code of Criminal Procedure.

We have seen the written statement as well as the statement of the victim recorded under Section 164 of the Code of Criminal Procedure. It is stated by the victim that initially, the petitioner had sexual intercourse with the victim by force against

her will. Subsequently, on 20th August, 2022 when the victim asked the petitioner to marry, he disclosed that he had never promised her to marry and he would not marry her in future.

This specific statement in the written complaint as well as the statement recorded under Section 164 of the Code of Criminal Procedure suggests that the petitioner never intended to marry the victim and prima facie the case of the deception from the very inception of relationship is on the surface.

Considering such aspect of the matter, we are not inclined to allow the instant application.

Accordingly, the prayer for anticipatory bail of the petitioner is rejected.

(Bibek Chaudhuri, J.)

(Biswaroop Chowdhury, J.)