

16.01.2023

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Ct. No. 29

KAUSHIK

Allowed

C.R.M.(A) 161 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Kandi** Police Station Case No. **322** of **2022** dated **11.06.2022** under Sections 498A/324/376/511/307/506/34 of the Indian Penal Code, 1860.

And

In Re : Bikash Das @ Bikash Kumar Das

..... petitioner

Mr. Somnath Adhikari

....for the petitioner

Mr. Manas Kumar Das

....for the de-facto complainant

Mr. Bidyut Kumar Roy

Ms. Rita Dutta

....for the State

Petitioner prays for anticipatory bail.

Learned advocate appearing for the petitioner submits that, the petitioner was falsely implicated. He submits that, the husband was enlarged on anticipatory bail by the jurisdictional Court. The police filed charge-sheet.

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 (Cr.P.C.) and her injury report.

De-facto complainant is represented.

Apparently, the police case was registered pursuant to an order passed under Section 156(3) Cr.P.C. The victim approached the Court about a month after the incident. In her 164 Cr.P.C. statement, the victim claims that, the petitioner attempted to rape her. The husband tried to strangulate her. The neighbours rescued her.

As noted above, the husband was enlarged on anticipatory bail by the jurisdictional Court.

Learned advocate appearing for the State despite the query of the Court did not draw the attention of the Court to any 161 Cr.P.C. statement of the neighbours.

The injury report of the victim records the claim made by the victim before the doctor that, she was assaulted by the husband. Attempt of rape was not alleged before the doctor.

In such circumstances, we 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/-, 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 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.

This application for anticipatory bail is, thus, allowed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)