

01.02.2023

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Ct. No. 29

KAUSHIK

Allowed

C.R.M.(A) 399 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Itahar** Police Station Case No. **582** of **2022** dated **04.12.2022** under Sections 448/376/511/506 of the Indian Penal Code.

And

In Re : Jahangir Alam

..... petitioner

Mr. Kaushik Chaudhury

Ms. Busra Khatun

....for the petitioner

Mr. Angshuman Chakraborty

....for the State

Petitioner prays for anticipatory bail.

Learned advocate appearing for the petitioner submits that, the police complaint was lodged 23 days after the alleged incident. The police complaint was one of attempt to rape. In the statement recorded under Section 164 of the Code of Criminal Procedure (Cr.P.C.), it was elevated to one of rape. The petitioner was falsely implicated.

Learned advocate appearing for the State draws the attention of the Court to the materials in the case diary including the 164 Cr.P.C. statement of the victim, her medical examination report and, in particular, to two 161 Cr.P.C. statements, one of sister-in-law of the victim and another of the neighbour.

The police complaint is one of attempt to rape. The 161 Cr.P.C. statement of the sister-in-law of the victim speaks of an attempt to rape.

The victim in her 164 Cr.P.C. statement complains of rape by the petitioner.

The medical evidence, which is presently available, is not conclusive on the subject.

There is a delay in the lodgment of the First Information Report.

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 further condition that the petitioner shall meet the Investigating Officer once a week till the conclusion of the investigation 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.)