

09.02.2023

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Ct. No. 29

**KAUSHIK
REJECTED**

C.R.M.(A) 588 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Bauria** Police Station Case No. **143** of **2022** dated **05.08.2022** under Sections 363/365/376(2)(n)/120B of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act, 2012.

And

In Re : Tapas @ Mofijuddin Khan @ Mafijuddin Khan

..... petitioner

Ms. Sananda Bhattacharya

....for the petitioner

Mr. Soumik Ganguly

....for the State

Petitioner prays for anticipatory bail.

Learned advocate appearing for the petitioner submits that, one of the co-accused was enlarged on anticipatory bail by an order dated January 24, 2023 passed in CRM (A) 318 of 2023.

Learned advocate appearing for the State draws the attention of the Court to the statement of the victim recorded under Section 164 of the Code of Criminal Procedure (Cr.P.C.). He submits that, the petitioner is standing on a different footing than the other co-accused, who was enlarged on anticipatory bail.

The victim was about 17 years of age when the incident occurred. Her 164 Cr.P.C. statement implicates the petitioner as one of the person involved in her abduction and sexual exploitation.

There are 161 Cr.P.C. statement of independent persons, who claimed that the victim and one of the co-accused used to live as husband and wife for about two months. Consequently, an inference can be drawn that victim in a position to seek assistance during this period of time. It is one of the reason why a female co-accused was enlarged on anticipatory bail by the order dated January 24, 2023.

The 164 Cr.P.C. statement of the victim, however, is categorical in saying that the present petitioner used to exploit her sexually and repeatedly.

In view of the contents of the 164 Cr.P.C. statement, we are unable to grant anticipatory bail to the petitioner.

Accordingly, prayer for anticipatory bail of the petitioner is rejected and the application being CRM (A) 588 of 2023 is dismissed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)