

22.02.2023
Serial no. 45
[Dd]
(Anticipatory bail)
Allowed)

CRM (A) 792 of 2023

In re : An Application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure in connection with **Golabari** Police Station Case No. **485** of **2022** dated **23.12.2022** under Sections **363/365** of the Indian Penal Code and adding Section **6** of the Protection of Children from Sexual Offences Act, 2012
-And-

In the matter of : **Ayush Gupta**
... .. Petitioner

Mr. Milon Mukherjee, Id. Sr. Adv.
Mr. Soumya Basu Roy Chowdhuri, Advocates
... .. *For the Petitioner*

Mr. Sujan Chatterjee, Advocate
... ..*For the State*

Mr. Arindam Dutta,
Mr. Abir Chakraborty, advocates
.. ...*For the de facto complainant*

Petitioner prays for anticipatory bail.

Learned senior advocate appearing for the petitioner submits that subsequent to the lodgment of the police complaint, the petitioner was interrogated under Section 41A of the Criminal Procedure Code. Petitioner cooperated with such interrogation. Petitioner offered the mobile phone which was not seized by the police authority. Learned senior advocate for the petitioner submits that the allegation of kidnapping cannot be sustained as against the petitioner. The subsequent allegation of penetrative sexual assault is an afterthought.

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 Criminal Procedure Code.

Learned advocate for the de facto complainant submits that the victim was sexually assaulted. He refers to the chronological events. He opposes the prayer for grant of anticipatory bail. Learned advocate for the de facto complainant submits that the petitioner is continuing to threaten the de facto complainant and for that too General Diary were lodged.

Subsequent to the lodgment of the first information report, the police issued notices under Section 41A of the Criminal Procedure Code, to which, the petitioner responded.

Thereafter, the victim recorded a statement under Section 164 of the Criminal Procedure Code.

However, there are materials in the case diary where she makes allegations with regard to penetrative sexual assault and the petitioner taking offensive photos of her.

It is claimed on behalf of the petitioner that while the petitioner was being interrogated under Section 41A of the Criminal Procedure Code, the petitioner offered the mobile phone for the purpose of seizure.

In view of the materials in the case diary, we deem it appropriate to grant anticipatory bail to the petitioner. However, the petitioner will surrender his mobile phone forthwith to the Investigating Officer.

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 further condition that the petitioner shall 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) 792 of 2023 is **disposed of**.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)