

14.03.2023

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Ct. No. 29

CHC

Allowed

C.R.M.(A) 995 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Harishchandrapur** Police Station Case No.**899 of 2022** dated **27.09.2022** under Sections **363/365** of the Indian Penal Code and adding Section 6 of the Protection of Children from the Sexual Offences Act.

And

In the matter of: Rohim Ali @ Rohim

..... petitioner

Mr. Kallol Mondal,
Mr. Krishan Roy,
Mr. Sourav Mukherjee,
Mr. Souvik Das

....for the petitioner

Ms. Faria Hossain,
Ms. Mamata Jana

....for the State

Mr. Anupam Das,
Mr. Soupal Chatterjee

...for the de facto complainant

Petitioner prays for anticipatory bail.

Learned advocate appearing for the petitioner submits that, petitioner was falsely implicated.

He submits that the mother of the petitioner lodged a police complaint against the father of the victim in which, prayer for anticipatory bail of the father of the victim was rejected.

Thereafter, the family members of the victim started taking illegal steps so as to falsely implicate the petitioner.

Learned advocate appearing for the State draws attention of the materials in the case diary including statement recorded under Section 164 of the Criminal Procedure Code of the victim as also her parents.

Learned advocate appearing for the de facto complainant refers to a writ petition filed at the behest of the de facto complainant before this Hon'ble Court.

He submits that writ petition is yet to be heard.

In response to a query of the Court, learned advocate appearing for the de facto complainant submits that the writ petition relates to the police complaint under consideration in the present case.

The present police complaint was registered on September 27, 2022.

The victim recorded her first statement under Section 164 of the Criminal Procedure Code on October 3, 2022. In such statement she stated that she went to her maternal aunty's house voluntarily. The victim thereafter, recorded a further statement under Section 164 of the Criminal Procedure Code on February 8, 2023 where she implicated the petitioner.

The second statement under Section 164 of the Criminal Procedure Code was recorded subsequent to the mother of the

petitioner lodging a complaint against the father of the victim in which the father of the victim was denied anticipatory bail.

Initially, the victim refused medical examination.

In such circumstances, there is a possibility of false implication.

We, therefore, 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/- (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 as and when called for by the Investigating Officer 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.

This application for anticipatory bail is, thus, allowed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

