

20.04.2023

19

Ct. No. 29

KAUSHIK

Allowed

C.R.M.(A) 1672 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Burdwan Sadar Women** Police Station Case No. **67** of **2023** dated **22.02.2023** under Sections 376/419/420/506 of the Indian Penal Code.

And

In Re : Anirban Ghosh

..... petitioner

Mr. Uday Sankar Chattopadhyay

Ms. Trisha Rakshit

Ms. Rajashree Tah

....for the petitioner

Mr. Debabrata Chatterjee

Mr. Santanu Chatterjee

....for the State

Petitioner prays for anticipatory bail.

Learned advocate appearing for the petitioner submits that, both the parties are adults. The police complaint was lodged after the relationship turned sour.

Learned advocate appearing for the State draws the attention of the Court to the materials in the case diary including the statement of the de-facto complainant recorded under Section 164 of the Code of Criminal Procedure (Cr.P.C.).

The de-facto complainant in her 164 Cr.P.C. statement acknowledges that, she was married to a different person.

Apparently, there was a relationship between the de-facto complainant and the petitioner.

The de-facto complainant claims rape on the ground that physical relationship was entered into on the promise of marriage, which was not kept by the petitioner.

The de-facto complainant was and still in marriage with a different person.

Both the petitioner and the de-facto complainant are adults. They are supposed to be aware of the consequences of their relationship.

As to whether, the petitioner entered into a physical relationship with the de-facto complainant on the promise of marriage or not is a issue which may be decided at the trial, if they raised.

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 month 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.)