

03.05.2023

Sl.9
Court No.29
(AD)
(Rejected)

C.R.M. (A) 1865 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Tehatta** Police Station Case No.**321 of 2023** dated **23.04.2023** under Sections **448/376/506** of the Indian Penal Code.

And

In the matter of: **Mitaj Ahamed Shaikh**

....petitioner.

Mr. Asraf Mondal
Ms. Sanjana Saha

... for the petitioner.

Mr. Saswata Gopal Mukherji, Ld. PP
Mr. Partha Pratim Das
Ms. Eshita Dutta

...for the State.

Petitioner prays for anticipatory bail.

Learned Advocate appearing for the petitioner submits that the petitioner was falsely implicated. She highlights the delay in the lodgment of the First Information Report. She submits that the de facto complainant is a married lady.

Learned Advocate appearing for the State draws the attention of the Court to the statements of the de facto complainant recorded under Section 164 of the Code of Criminal Procedure as also her daughter recorded under Section 164 thereof.

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

De facto complainant seeks to justify such delay on various grounds such as threatening being held out by the petitioner against her life and life of her child and her husband not being in India. Offensive photograph was being taken and threatened to be made public.

The de facto complainant in her statement recorded under

Section 164 of the Code of Criminal Procedure states that the petitioner used to stalk her and sought sexual favours from her over a period of time as her husband was abroad. Subsequently the petitioner raped her. Petitioner took offensive video photograph of her. Petitioner used to blackmail her on the basis of such photograph and videography and extracted money from her.

The daughter of the de facto complainant who recorded the statement under Section 164 of the Code of Criminal Procedure narrates an incident happening at one particular night where she saw the petitioner to be raping the de facto complainant and when the daughter confronted the petitioner, a knife were garnished and de facto complainant was taken to an adjacent room.

Presence of the petitioner with the de facto complainant stands corroborated on the basis of the materials presently available on the record.

In such circumstances, a *prima facie* case for investigation as against the petitioner stands made out on the basis of the materials presently available. Enlarging the petitioner on anticipatory bail at this stage, may be inimical to the investigations.

In such circumstances, we are unable to grant anticipatory bail to the petitioner.

Accordingly, the prayer for anticipatory bail of the petitioner is rejected.

C.R.M. (A) 1865 of 2023 is dismissed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)