

19.05.2023

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Ct. No. 29

KAUSHIK

Allowed

C.R.M.(A) 2087 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Domkal** Police Station Case No. **240** of **2023** dated **10.04.2023** under Sections 448/376/511/506 of the Indian Penal Code.

And

In Re : Nasarul Mollah

..... petitioner

Mr. Tapodip Gupta

....for the petitioner

Ms. Sayanti Santra

....for the State

There is a previous police complaint lodged at the behest of the de-facto complainant against her husband and two other persons, inter alia, under Section 376 of the Indian Penal Code, 1860 where, such accuseds were acquitted. The Court is informed that the husband of the de-facto complainant is presently living in a separate mess. Petitioner before us is the brother-in-law of the de-facto complainant.

The de-facto complainant approached the Jurisdictional Court under Section 156(3) of the Code of Criminal Procedure (Cr.P.C.) complaining of rape as against the petitioner. On the basis of the order of the Jurisdictional Court, the instant First Information Report was registered. The de-facto complainant recorded her 164 Cr.P.C. statement, which is at variance with the 156(3) Cr.P.C. statement. Her claim in the 156(3) Cr.P.C.

petition and her 164 Cr.P.C. statement, however, are not corroborated by 161 Cr.P.C. statements of the neighbours. The neighbours speak of an attempt to rape.

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.)

