

06.06.2023

Sl. 7

Court No. 12

Sourav/

Suvayan

(Allowed)

C.R.M. (A) 2122 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Burwan** Police Station Case No. **83** of **2023** dated **12.03.2023** under Sections **341/325/376(2)(f)/307/506/34** of the Indian Penal Code, 1860.

And

In the matter of: **Rajib Pal @ Brindaban Pal**

....petitioner.

Mr. Manas Kumar Das

...for the petitioner.

Mr. Binay Panda

Ms. Puspita Saha

...for the State.

Ms. Jeenia Rudra

Ms. Megha Chanda

...for the de facto complainant.

1. Heard learned Counsel for both the parties.
2. This petition for anticipatory bail being CRM (A) 2122 of 2023 arises out of Burwan Police Station Case No. 83 of 2023 dated 12.03.2023 under Sections 341/325/376(2)(f)/307/506/34 IPC.
3. The petitioner is stated to be the cousin-in-law of the victim. The statement of the victim recorded under Sections 161 and 164 Cr.P.C. *per se* do not constitute an offence under Section 376(2)(f) IPC though aggravated form of indecent assault punishable under Section 354 IPC is *prima facie* made out against the petitioner.
4. Our view is, however, tentative and not to be followed by the trial court.
5. Considered the materials placed by learned Counsel for the parties including the statement of the witnesses. Charge-

sheet is stated to have been filed in the meantime.

6. Regard being had to such facts and submissions, factum of permanent residence of the petitioner, nature of allegation, submission of charge-sheet and completion of investigation in the meantime, it is directed that the petitioner shall surrender before the Judicial Magistrate, Kandi, Murshidabad in the G.R. case corresponding to Burwan P.S. case No. 83 of 2023 dated 12.03.2023 within three weeks from today.
7. On his surrender and motion for bail, the petitioner shall be released on bail on such terms and conditions as deemed just and proper by the learned Magistrate in the facts and circumstances of the case.
8. Accordingly, the prayer for the anticipatory bail is allowed.
9. The application being **CRM (A) 2122 of 2023** is disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

