

13.07.2023
ML. 24
Court No. 29
Suvayan
(Partly Allowed)

C.R.M. (A) 2415 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Saktipur** Police Station Case No. **243 of 2022** dated **26.12.2022** under Sections **498A/376** of the IPC.

And

In the matter of: **Fulbabu Sk. & Ors.**

....petitioners.

Mr. Tapan Kumar Mahapatra

...for the petitioners.

Mr. Abhra Mukherjee

Mr. Gautam Banerjee

...for the State.

1. Heard learned Counsel for both the parties.
2. Considered the materials placed by them including the statement of the victim wife recorded under Section 164 Cr.P.C. where there is allegation against petitioner No. 1, Fulbabu Sk. and petitioner No. 2, Earshad Sk. @ Issad Sk. so far as the offence under Section 376 IPC is concerned. Petitioner No. 2 being the husband of the informant is alleged to have handed over her to petitioner No. 1 after the Salishi and petitioner No. 1 is alleged to have kept the informant in the captivity for eight days and it is further alleged that she was ravished in course of such captivity.
3. Regard being had to such allegation, we are not inclined to exercise our discretion in favour of the petitioner No. 1, Fulbabu Sk. and petitioner No. 2, Earshad Sk. @ Issad Sk under Section 438 Cr.P.C at this stage.
4. So far as, petitioner No. 3, Swapan Sk. is concerned, there is no iota of allegation against him so far as the entire transaction is concerned.
5. Regard being had to such facts and submissions, factum of

permanent residence of the petitioner No. 3 and substantial progress in the investigation, it is directed that the petitioner No. 3, Swapan Sk. shall be released on bail by the Arresting Officer in the event of his arrest on such terms and conditions as deemed just and proper in the facts and circumstances of the case in the aforesaid P.S. case.

6. The concerned Arresting Officer is hereby directed to act upon the server copy of this order.
7. Within 21 days from today the petitioner No. 3, Swapan Sk. shall appear before the I.O. alongwith a server copy/certified copy of this order. If server copy is supplied, learned I.O. shall act upon that.
8. Accordingly, the prayer for the anticipatory bail in respect of petitioner No. 3, Swapan Sk. is allowed and in respect of petitioner No. 1, Fulbabu Sk. and petitioner No. 2, Earshad Sk. @ Issad Sk are rejected.
9. Accordingly, the application being CRM (A) 2415 of 2023 is allowed in part.

(Chitta Ranjan Dash, J.)

(Apurba Sinha Ray, J.)

