

02.08.2023
(D/L 31)
Ct. No.29
Allowed
(SKB)

CRM (A) 2728 of 2023

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Sagardighi P.S. Case No.196 of 2023 dated 21.05.2023 under Sections 448/376/506/34 of the Indian Penal Code.

In the matter of : Mojammel Khan @ Mukul Kha
... petitioner

Mr. Anisur Rahman
... for the petitioner

Ms. Anasuya Sinha,
Ms. Mayukhi Mitra
... for the State

1. Heard the learned Counsel for the parties.
2. The wife of the present petitioner had filed the FIR on 23.04.2023 vide Sagardighi P.S. Case No.141 of 2023 against the family members of the informant in the present case.
3. The accused persons in the aforesaid FIR had since been released on bail. After about 40 days of the alleged incident i.e. 23.04.2023, the present FIR vide Annexure 'P-2' has been filed by the informant. Though there is allegation of rape in the FIR, in her statement recorded under Section 164 Cr.P.C. there is allegation of attempt to rape.
4. It is fairly submitted at the Bar that there is long standing dispute between the parties and there is case and counter-case between them. The veracity of the present complaint is best to be left to the wisdom of the learned trial court especially, in view of the surrounding circumstances.

5. Regard being had to such facts and submissions, factum of permanent residence of the petitioner, nature of allegation and substantial progress in investigation, it is directed that the petitioner shall be released on bail by the Arresting Officer in the event of his arrest in the aforesaid P.S. case on such terms and conditions as deemed just and proper in the facts and circumstances of the case including the conditions:
 - i) The petitioner is directed to appear before the IO once in a week on the day and time fixed by the IO for the purpose of investigation till submission of Final Form.
 - ii) The petitioner shall not threaten, induce or coerce any witness of this case in any manner whatsoever during the currency of this order.
6. Accordingly, the prayer for the anticipatory bail is allowed.
7. Within 21 days from today petitioner is directed to appear before the I.O. along with a server copy or certified copy of this order.
8. The application being CRM(A) 2728 of 2023 is disposed of.
9. The Arresting Officer is hereby directed to act upon the server copy of this order.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)