

09.08.2023
SL. 12
Court No. 29
Suvayan
(Allowed)

C.R.M. (A) 2730 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Nowda** Police Station Case No. **145 of 2023** dated **02.05.2023** under Section **367AB** of the IPC and Sections **6/10** of POCSO Act.

And

In the matter of: **Abdul Rashid Mondal @ Abdur Rashid Mondal @ Abdur Rashid Sk.**

....petitioner.

Mr. Manjit Singh
Mr. Amitava Karmakar
Mr. Arnab Kumar Neogi

...for the petitioner.

Mr. Madhusudan Sur, APP
Mr. Arabinda Manna

...for the State.

1. Heard learned Counsel for both the parties.
2. In the statement of the victim recorded under Section 164 Cr.P.C. there is no allegation of any indecent overt act against the victim by the petitioner. There are some injuries on the right side breast of the victim but it is stated by the victim in her aforesaid statement that injury was caused when she fell down while going to the tuition and it has been further stated by her in the aforesaid statement that the case has been registered against the petitioner as disputes started between her mother and the petitioner over the tuition. Though there is bar under Sub-section (4) of Section 438 Cr.P.C. so far as offence under Section 376AB of the IPC is concerned, such bar is not absolute when the police paper does not make out a *prima facie* case under the said section.
3. Regard being had to such facts and submissions, factum of permanent residence of the petitioner, nature of allegation, nature of offence, nature of evidence 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 that:

- i) The petitioner is directed to appear before the I.O. once in a fortnight on the day and time fixed by the I.O. for the purpose of investigation till submission of F.F.
 - ii) The petitioner shall not threaten, induce or coerce any witness of this case in any manner whatsoever during the currency of this order.
4. The concerned Arresting Officer is hereby directed to act upon the server copy of this order.
 5. Within 21 days from today the petitioner 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.
 6. Accordingly, the prayer for the anticipatory bail is allowed.
 7. The application being **CRM (A) 2730 of 2023** is disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

