

07.08.2023
ML. 25
Court No. 29
Suvayan
(Allowed)

C.R.M. (A) 2764 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Harishchandrapur** Police Station Case No. **176 of 2023** dated **03.03.2023** under Sections **498A/354A/354C/376/506/34** of the IPC.

And

In the matter of: **Sarban Saha & Anr.**

....petitioners.

Mr. Somopriyo Chowdhury
Mr. Dipayan Das

...for the petitioners.

Mr. S. G. Mukherji, PP
Mr. Partha Pratim Das

...for the State.

1. Heard learned Counsel for both the parties.
2. The petitioner No. 1 is the husband and the petitioner No. 2 is the brother-in-law of the informant. There is allegation of rape against the petitioner No. 2. From the petition jointly filed by the husband and wife in Matrimonial Suit No. 1043 of 2022 in paragraph 5 it is found that petitioner No. 2 (wife) is living in her parental home since 10.01.2020. The FIR has been filed on 03.03.2023. Though there is allegation against petitioner No. 2 so far as the serious offence of rape is concerned there is nothing on record to suggest as to how the victim who was staying in her parental home came to live in her matrimonial home in March 2023. This being a question of fact is better to be left to the wisdom of the learned Trial Court.
3. Regard being had to such facts and submissions, factum of permanent residence of the petitioners, nature of allegation, nature of evidence and substantial progress in investigation, it is directed that each of the petitioner shall be released on

bail by the Arresting Officer in the event of their 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 petitioners are 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 petitioners 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 each of 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.
 5. Accordingly, the prayer for the anticipatory bail is allowed.
 6. The application being **CRM (A) 2764 of 2023** is disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

