

08.08.2023
ML. 113
Court No. 29
Suvayan
(Allowed)

C.R.M. (A) 2884 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Domkal** Police Station Case No. **325 of 2023** dated **16.05.2023** under Sections **498A/376(1)/34** of the IPC read with Sections **3/4** of the D.P. Act.

And

In the matter of: **Kamal Hassan @ Kamal Mondal**

....petitioner.

Mr. Golam Nure Imrohi
Mr. Susnigdho Bhattacharyya
Ms. Bidisha Chakraborty

...for the petitioner.

Mr. Debabrata Chatterjee
Mr. Santanu Chatterjee
Ms. Moushumi Sarkar

...for the State.

1. Heard learned Counsel for both the parties.
2. Though from the statement of the victim a *prima facie* offence under Section 376(1) IPC is made out against the petitioner who is the brother-in-law of the victim, the suspicious feature in the case is that there is no explanation at all for delay in lodging the FIR. Though the occurrence happened on December 2, 2022 the local S.P. of the local was approached in March 28, 2023 and thereafter a complaint was filed which was sent for registration of the FIR under Section 156 (3) Cr.P.C. on 16.05.2023. The victim has not whispered a word about the delay on her part except the fact that when she narrated the incident before her husband he and other family members assaulted her. There is also plea by the petitioner to the effect that he was not present on the spot village on the date of occurrence and to substantiate that he has filed documents vide annexure P-2. Both the aforesaid questions are very important to sustain the charge but no definite opinion can be framed about the same at this stage on the

basis of police papers. It is, therefore, better to leave the question of facts to be decided by the learned Trial Court.

3. Regard being had to such facts and submissions, factum of permanent residence of the petitioner, nature of allegation, genesis of events 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 week 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) 2884 of 2023** is disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

