

10.08.2023
(M/L 196)
Ct. No.29
Allowed
(SKB)

CRM (A) 2985 of 2023

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Tehatta P.S. Case No.431 of 2023 dated 31.05.2023 under Sections 448/376 of the Indian Penal Code.

In the matter of : Samir Biswas

... petitioner

Mr. Asraf Mandal

... for the petitioner

Mr. Swapan Banerjee,
Mr. Anindya Sundar Chatterjee

... for the State

1. Heard the learned Counsel for the parties.
2. The present petitioner is the brother-in-law of the complainant who is the wife of one Suresh Biswas. There is a proceeding under Section 144 Cr.P.C. pending between the parties i.e. the present petitioner and husband of the informant prior to the present case over the land disputes. The aforesaid proceeding was filed on 2nd May, 2023. The present FIR by the informant has been filed on 31st May, 2023, after about 22 days delay but the delay has not been explained.
3. In the statement of the victim recorded under Section 161 Cr.P.C. it is found from the words used, that there has been allegation of outraging of modesty but in her statement under Section 164 Cr.P.C., there is allegation of committing rape. Such allegation of rape does not get support from other statements of the witnesses on record. The witnesses are stating about outraging of modesty, only "slilatahani".

4. 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.
5. Accordingly, the prayer for the anticipatory bail is allowed.
6. 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.
7. The application being CRM(A) 2985 of 2023 is disposed of.
8. The Arresting Officer is hereby directed to act upon the server copy of this order.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)