

04.08.2023
Sl. No.26(S/L)
as
[ALLOWED]

C. R. M. (A) 3214 of 2023

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Baishnabnagar Police Station Case No. 357 of 2023 dated 01.06.2023 under Sections 417/376/323/34 of the Indian Penal Code.

And

In Re: ***Kamalesh Mandal.***

... .. Petitioner

Mr. Mrityunjoy Chatterjee,
Mr. Debapriya Majumder.

... .. for the petitioner

Mr. Debabrata Chatterjee, Id. A.P.P.,
Ms. Mausumi Sarkar.

... .. for the State

Petitioner submits victim was a major lady. She had voluntarily cohabited. Allegation of rape is out and out false. He prays for anticipatory bail.

Learned Advocate for the State opposes the prayer for anticipatory bail.

We have considered the materials on record including the First Information Report annexed to the application for anticipatory bail. Allegations in the First Information Report show free mixing between two adults. Allegation of rape is to be assessed in the light of the submission that the victim was a major lady at the time of cohabitation and was aware of consequences thereof.

In view of the aforesaid fact, we are of the opinion custodial interrogation for progress of investigation is not necessary but petitioner requires to co-operate with the investigation.

Accordingly, we direct that in the event of arrest, the accused/petitioner viz., ***Kamalesh Mandal*** be released on bail upon furnishing

a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, to the satisfaction of the arresting officer and also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioner, while on bail, shall meet the Investigating Officer once in a week until further orders. He shall appear before the court below and pray for regular bail within four weeks from date.

The application for anticipatory bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)