

24.08.2023
ML. 421
Court No. 29
Suvayan
(Allowed)

C.R.M. (A) 3237 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Nabadwip** Police Station Case No. **222 of 2023** dated **02.05.2023** under Sections **341/377/506** of the IPC.

And

In the matter of: **Jayanta Kumar Saha @ Jagadartiha Das**

....petitioner.

Mr. Sekhar Kr. Basu, Sr. Adv.
Mr. Biplab Mitra
Mr. Probir Adhya
Mrs. Trina Mitra
Mr. Biswajit Ghosh
Miss. Madhumanti Chakrobarty

...for the petitioner.

Mr. Bidyut Kr. Roy
Ms. Rita Datta

...for the State.

1. Heard learned Counsel for both the parties.
2. The petitioner being a monk is alleged to have committed the offence under Section 377 IPC once with a person in 2007 which came to light after registration of FIR in the present case on 02.05.2023. The present occurrence happened on 16.01.2023 and FIR was lodged on 02.05.2023 after about four months.
3. Learned Counsel for the State with all the vehemence at his command submits that the petitioner being a monk has polluted his order and his action has shaken the conscience of the society.
4. Be that as it may, we being the persons of law have to go by law.
5. From the materials on record it is found that there has been undue delay without any explanation in lodging of the FIR. Before the Sessions Court when petition under Section 438 Cr.P.C. was filed by the present petitioner, the informant

appeared and filed an affidavit to the effect that he has no grievance against the petitioner. Such affidavit was rightly ignored on the ground that such affidavit might have been managed. But the informant having appeared before the Court and having filed the affidavit, that has some value so far as question of bail or anticipatory bail is concerned. Though it has no value in the trial if the offence is otherwise not compoundable under Section 320 Cr.P.C.

6. 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 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.
7. The concerned Arresting Officer is hereby directed to act upon the server copy of this order.
8. 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.

9. Accordingly, the prayer for the anticipatory bail is allowed.
10. The application being **CRM (A) 3237 of 2023** is disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

