

30.08.2023
SL. 20
Court No. 29
Suvayan
(Allowed)

C.R.M. (A) 3461 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Nakashipara** Police Station Case No. **22 of 2023** dated **10.01.2023** under Section **376** of the IPC.

And

In the matter of: **Santosh Biswas**

....petitioner.

Mr. Ashok Das
Mr. Amanul Islam

...for the petitioner.

Mr. Debabrata Chatterjee
Mr. Santanu Chatterjee

...for the State.

1. Heard learned Advocate for the petitioner and learned Advocate for the State at length.
2. From the materials as placed before us it reveals that in course of her examination as recorded under Section 164 Cr.P.C. that on the fateful day, i.e., on 16.12.2022 at about 10.00 p.m. when the victim was sleeping with her children at her room, the present petitioner entered into her room with a gun on his hand and thereafter raped her. We noticed material contradiction in the written complaint as well as in the statements of the witnesses as recorded under Section 161 Cr.P.C. wherein it is the case of the prosecution that on the self-same day and hour the victim was ravished by the petitioner not at the gunpoint but showing a 'bhojali'.
3. It also reveals that there is no explanation of delay of one month in lodging the FIR. Considering the material contradiction as noted hereinabove, we are convinced that the present petitioner is successful in making out of a case for obtaining of favourable order in his favour.
4. Regard being had to such facts and submissions, factum of

permanent residence of the petitioner, nature of allegation, nature of evidence 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.
- iii) The petitioner shall not leave the jurisdiction of the P.S. without obtaining leave from the I.O.

- 5. The concerned Arresting Officer is hereby directed to act upon the server copy of this order.
- 6. 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.
- 7. Accordingly, the prayer for the anticipatory bail is allowed.
- 8. The application being **CRM (A) 3461 of 2023** is disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

