

01.09.2023

SL. 14

Court No. 29

Suvayan

(Allowed)

C.R.M. (A) 3602 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Uluberia Women** Police Station Case No. **50 of 2023** dated **09.08.2023** under Sections **376D/506** of the IPC.

And

In the matter of: **Bapi Sk @ Sk. Jiyarul Rahaman @ Jiarul & Ors.**

....petitioners.

Mr. Kallol Mondal

Mr. Krishan Ray

Mr. A. Ghosh

...for the petitioners.

Mr. Swapan Banerjee

Mr. Suman De

...for the State.

Mr. Rabindranath Pal

Mr. Subhasis Kr. Paul

...for the de facto complainant.

1. Heard learned Counsel for both the parties.
2. The present petitioner No. 1 is the brother-in-law (brother of the husband) of the victim informant, petitioner No. 2 is the brother-in-law (husband of married sister-in-law) of the victim and petitioner No. 3 is the sister-in-law of the victim.
3. It is alleged in the statement of the victim recorded under Section 164 Cr.P.C. that on 18.07.2023 at about 8 p.m. present petitioner Nos. 2 and 3 took the victim to her matrimonial home on the pretext of compromise over property dispute after death of her (victim's) father-in-law. At about 2 a.m. in the intervening night of 18.07.2023 and 19.07.2023 when the victim was sleeping keeping the door open as per instruction of the petitioner No. 3, petitioner Nos. 1 and 2 came there and petitioner No. 1 was in an inebriated state. Petitioner No. 1 ravished her while petitioner No. 2 caught hold of her hands. The victim has refused medical

examination.

4. It is fairly submitted at the Bar that there is no statement of independent witness to the effect that the victim had come to her matrimonial house at about 8 p.m. on the relevant day or she was present there in the succeeding morning.
5. From the present petition, we find that at page No. 9 there is an FIR against the present petitioners by the father of the present victim for alleged offence under Sections 498A/326/34 IPC. In the aforesaid FIR the husband was not a party. Thereafter in page No. 12 an FIR has been lodged by the father-in-law of the present victim against the victim and her husband for offence under Sections 341/323/325/506/34 IPC read with Sections 24 and 25 of the Senior Citizenship Act. In page No. 14 the present petition, it is found that the victim has lodged an FIR against the present petitioners and others for offence under Sections 341/323/354B/506/34/195A IPC. In this case also the husband is not an accused.
6. Learned Counsel for the petitioners submits that the father-in-law of the victim, who is the father of the present petitioner No. 1 died about five months back. The victim in connivance with her husband and father have grabbed the entire property of the father of petitioner No. 1. When there are series of litigation between the parties there was no question of the petitioner Nos. 2 and 3 calling the victim to matrimonial home for compromise as she is a lady. A talk of compromise would have arisen if the petitioners would have gone to the house of

the victim to talk to her husband as he is a part of the joint owner of the property and not the victim.

7. It is further submitted by learned Counsel for the petitioner that any talk of compromise with the victim would not have yielded any result without the consent of her husband.
8. It is found in present day that for the shake of revenge or in a vengeful attitude mischievous persons are employing very *mean methods* like allegation of rape and making out a case under POCSO Act involving their minor son and daughter. All these laws are for protection of some class but there is much misuse then use of the laws. It is not a good sign for the society at large.
9. From the narration of events as above though we cannot go beyond the police records but the story as presented is not believable and such the question of facts arising out of the allegation should be best left to the wisdom of the Trial Court.
10. Regard being had to such facts and submissions, factum of permanent residence of the petitioners, nature of allegation and substantial progress in investigation, it is directed that each of the petitioner shall be released on bail by the Arresting Officer in the event of their 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 No. 1 (Bapi Sk @ Sk. Jiyarul Rahaman @ Jiarul) and the petitioner No. 2 (Nijamuddin Mollah) are 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 No. 3 (Momtaj Begum Mollah) is directed to appear before the I.O. for the purpose of investigation as and when required from sunrise to sunset till submission of F.F.

iii) The petitioners shall not threaten, induce or coerce any witness of this case in any manner whatsoever during the currency of this order.

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

12. Within 21 days from today each of 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.

13. Accordingly, the prayer for the anticipatory bail is allowed.

14. The application being **CRM (A) 3602 of 2023** is disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

