

20.09.2023

SL. 12

Court No. 29

Sourav

(Partly

Allowed)

C.R.M. (A) 3785 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Kharagpur** Police Station Case No. **328** of **2023** dated **19.03.2023** under Sections **498A/323/354/354A/307/34** IPC (corresponding to G.R. Case No. 1107 of 2023).

And

In the matter of: **Bulu Ghosh & Anr.**

....petitioners.

Mr. Pravas Bhattacharya

...for the petitioners.

Mr. Bidyut Kumar Roy

Ms. Sima Biswas

...for the State.

Mr. Navanil De

Mr. Rajeshewar Chakraborty

Mr. Srinjan Ghosh

Mr. Subhrajit Ghosh

Ms. Monami Mukherjee

... for the defacto complainant.

1. Heard learned Counsel for the parties.
2. This is a case of aggravated domestic violence where the informant/victim was subjected to torture both physical and mental at her in-law's house at the instance of her husband and others.
3. From the statement of the victim as recorded under Section 164 Cr.P.C., it appears that the victim was continuously subjected to violation of her chastity by the present petitioner no. 2 who is her brother-in-law.
4. It also reveals that prior to lodging FIR of the instant case, a criminal case was initiated at the instance of the informant/victim, however, that was resolved with a hope of bright future. It further reveals that when the

victim/informant came back to her matrimonial home, her privacy was again violated by the petitioner no. 2. So far as the other allegations as made out in the said statement of the victim, we, however, find no medical corroboration to that effect.

5. Considering the conduct of the petitioner no. 2 and the alleged serious misdemeanor committed by him, we are not inclined to exercise our discretion under Section 438 Cr.P.C. in favour of the present petitioner no. 2 (Utpal Ghosh).
6. Accordingly, the prayer for anticipatory bail of petitioner no. 2 (Utpal Ghosh) is considered and rejected.
7. Regard being had to the facts and submission, factum of permanent residence of the petitioner no. 1 (Bulu Ghosh), nature of allegation, nature of evidence and substantial progress in investigation, it is directed that the petitioner no. 1 (Bulu Ghosh) shall be released on bail in the event of her arrest by the Arresting Officer 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 being a lady is directed to appear before the I.O. for the purpose of investigation as and when required from sunrise to sunset.
8. Within 21 days from today, petitioner no. 1 is directed to appear before the I.O. along with a server copy or certified copy of this order.
9. Accordingly, the prayer for anticipatory bail is allowed in part.

10. The application being **CRM (A) 3785 of 2023** is disposed of.
11. The I.O. is hereby directed to act upon the server copy of this order, if required.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

