

19.09.2023
M/L 182
Ct. No.29
(Allowed)
(SKB)

CRM (A) 3789 of 2023

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Mothabari P. S. Case No.78 of 2023 dated 19.03.2023 under Sections 498A/323/313/376 of the Indian Penal Code and Sections 3/4 of the D.P. Act in G.R. Case No.1657 of 2023.

In the matter of : Sadikul Sk and another
... Petitioners

Mr. Amitabha Karmakar,
Mr. Arup Kumar Bhowmick
... for the petitioners

Mr. Saswata Gopal Mukerji, ld. PP
Mr. Imran Ali,
Ms. Debjani Sahu
... for the State

1. Heard learned advocates for the parties.
2. The present petitioner no.1 is the husband and the petitioner no.2 is the brother-in-law (husband's elder brother) of the informant housewife.
3. In the FIR, a case has been made out for commission of offence under Sections 498A/323/313 of the IPC and Sections 3/4 of the D.P. Act against both the petitioners while the allegation under Section 376 IPC is directed against the petitioner no.2 only.
4. On perusal of the entire materials of the CD, we find no sufficient, *prima facie*, materials to substantiate the offence under Section 313 IPC. So far as the allegation under Section 376 IPC against the petitioner no.2 is

concerned, it appears that in a statement as recorded under Section 164 Cr.P.C., the informant housewife did not disclose any date, time and manner of commission of the crime. So far as the other allegations are concerned, it appears to us that these are at the fringe.

5. Regard being had to such facts and submissions, factum of permanent residence of the petitioners, nature of allegation, the fact that there is always hope of compromise in matrimonial disputes and such compromise is always in the interest of the family and society 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 G.R. Case No.1657 of 2023 arising out of 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 condition:

i) The petitioners are directed to appear before the IO once in a fortnight on the day and time fixed by the IO for the purpose of investigation till submission of Final Form.

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

7. Within 21 days from today petitioners are directed to appear before the I.O. along with a server copy or certified copy of this order.

8. The applications being CRM(A) 3789 of 2023 is disposed of.
9. The Arresting Officer is hereby directed to act upon the server copy or certified copy of this order.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)