

21.09.2023
M/L 218
Ct. No.29
(D/O)
(SKB)

CRM (A) 3826 of 2023

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Kotwali P. S. Case No.109 of 2023 dated 06.02.2023 under Sections 341/506/34 of the Indian Penal Code and Section 3(1)(r) of the Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, 1989.

In the matter of : Suparna Halder

... Petitioner

Mr. Soumik Ganguli,
Ms. Rina singh,
Mr. Sourat Nandy

... for the petitioner

Mr. S. S. Imam,
Mr. R. Jana

... for the State

1. Heard learned counsel for the parties.
2. The present petitioner is stated to be the wife of Subir Halder who is a person belonging to ST community, though the present petitioner herself was not born into ST community.
3. Whether the petitioner belongs to the ST community on solemnisation of her marriage with a person of ST community, is not a question germane in the present case.
4. Learned counsel for the petitioner submits that from the date of her marriage she is observing and maintaining life style typical to ST community, she being the wife of a person belonging to the ST community.

5. Whether the rigors of the Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act shall be applicable to the present petitioner is a question of fact to be decided by the trial court and our observation supra is solely on the basis on submission at the Bar. There being a bar under Section 18 of the Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, we are, *prima facie*, not inclined to exercise our discretion in the present petition. However, we grant interim protection to the petitioner for a period of four weeks from today exercising our inherent power under Section 482 Cr.P.C. We direct the petitioner to appear before the concerned court with seven days' advance notice in duplicate to the learned PP/APP attached to that court. On appearance and application for bail by the present petitioner, the court in seisin over the matter shall also grant interim protection to the petitioner, especially in view of the nature of offence and shall hear the petition for anticipatory bail of the present petitioner after due notice to the victim as required under the aforesaid Act. After hearing the parties at length, the petition for bail filed by the present petitioner shall be disposed of on merit in accordance with law.
6. With the aforesaid observation, the application being CRM(A) 3826 of 2023 is disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)