

25.09.2023

ML. 287

Court No. 29

Sourav

(Allowed)

C.R.M. (A) 3895 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Kharagpur (L)** Police Station Case No. **606** of **2023** dated **26.07.2023** under Sections **447/323/354A/354B/376D/379/506/34** IPC (corresponding to G.R. Case No. 2256 of 2023).

And

In the matter of: **Sekh Mahidul Ali @ Moidul Ali @ Mahi & Anr.**
....petitioners.

Mr. Bikash Ranjan Bhattacharyya, Sr. Adv.

Ms. S. Das

Mr. R. D. Bhawmick

...for the petitioners.

Mr. Soumik Ganguli

...for the State.

1. Heard learned Counsel for the parties.
2. Both the petitioners are brothers. The informant is stated to be the lessor of the land over which they are running a 'Dhaba' since 20 years. Admittedly, there is pending suit between the parties.
3. From the FIR and statement of the victim under Section 164 Cr.P.C., it is found that on the relevant date of occurrence, measurement of the land-in-question was being undertaken and at that time some dispute arose there between the parties. Thereafter, both the petitioners are alleged to have confined the victim in a latrine and they are alleged to have ravished her one after the another.
4. The medical examination has been conducted after about one month of the incident. So obviously, nothing could be found in the medical examination report.
5. Learned Counsel for the petitioner submits that the present

allegation has been made after the informant became unsuccessful in getting an interim order from the civil court.

6. Learned Counsel for the State, on the other hand, submits that the allegation is very grave and serious.
7. From the genesis of events, it is found that some element of criminality has been imported into a purely civil dispute to see that the petitioners are ousted from the land-in-question. Though, we cannot go beyond the police papers but from the entire genesis of events, mention about civil dispute in the FIR itself, the narrative in the statement of the victim recorded under Section 164 Cr.P.C. and the trend in the State to rope in innocent persons in such cases, we are constrained to take a lenient view in the matter.
8. Regard being had to the facts and submission, factum of permanent residence of the petitioners, nature of allegation, nature of evidence and substantial progress in investigation, it is directed that each of the petitioner shall be released on bail in the event of their 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 petitioners 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 Final Form.
 - ii) The petitioners shall not threaten, induce or coerce any witness of this case in any manner

whatsoever during the currency of this order.

9. 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.
10. Accordingly, the prayer for anticipatory bail is allowed.
11. The application being **CRM (A) 3895 of 2023** is disposed of.
12. 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.)

