

05.10.2023
D/L 20
Ct. No.29
(Allowed)
(SKB)

CRM (A) 4066 of 2023

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Pingla P. S. Case No.143 of 2023 dated 09.05.2023 under Sections 448/323/325/354B/379/509/34 (G.R. Case No.1605 of 2023).

In the matter of : Sk. Samidul Islam @ Sk. Samidul
... Petitioner

Mr. Manas Kumar Das,
Mr. Siddhartha Sarkar,
Mr. Hirak Roy

... for the petitioner

Mr. Rudradipta Nandy, Id. APP
Mr. Subrato Roy

... for the State

1. Heard learned advocates for the parties.
2. Learned advocate for the petitioner at the very outset draws out attention to this court to the Annexure P-2 running page 11 to page 17 of the petition wherefrom it reveals that in between the present petitioner and the mother and sister of the victim a title suit has been initiated before the competent civil court wherein an ad-interim order of injunction has been passed. It is submitted that the case as involved in the instant application is the counter blast to the said civil suit.
3. While opposing the prayer for anticipatory bail, Mr. Nandy, learned counsel for the State, draws our attention to the statement of the victim as recorded under Section

164 Cr.P.C. as well as to some other statements of the witnesses recorded under Section 161 Cr.P.C.

4. We have noticed that in the statement under Section 164 Cr.P.C. of the victim, though a case has been made out as against the petitioner under Section 376 IPC, but surprisingly the date, exact time and even the place of occurrence of the alleged incident has not been mentioned. We have also noticed that in the statements of the witnesses/neighbours, there are whispers about the property dispute between the parties.
5. In view of the aforesaid facts as discussed supra, the question of complicity of the present petitioner in the alleged crime is better to be left for the decision of the learned trial court at the time of trial. We do not find any justification for custodial interrogation of the present petitioner.
6. Regard being had to such facts and submissions, factum of permanent residence of the petitioner, nature of allegation, nature of evidence and substantial progress in investigation, it is directed that the petitioner shall be released on bail by the Arresting Officer in the event of his arrest in the G.R. Case No.1605 of 2023 arising out of 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:

- i) The petitioner is 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.
 - ii) The petitioner shall not threaten, induce or coerce any witness of this case in any manner whatsoever during the currency of this order.
7. Accordingly, the prayer for the anticipatory bail is allowed.
8. Within 21 days from today petitioner is directed to appear before the I.O. along with a server copy or certified copy of this order.
9. The applications being CRM(A) 4066 of 2023 is disposed of.
10. 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.)