

29.09.2023  
Sl. No.55  
**akd**  
[ALLOWED]

**C. R. M. (A) 4098 of 2023**

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 08.09.2023 in connection with Bidhannagar North Police Station Case No. 84 of 2023 dated 27.05.2023 under Sections 417/376/341/406/312/509 of the Indian Penal Code. (G.R. Case No.529 of 2023)

And

In Re: ***Rakesh Pirogiwal***

... .. Petitioner

Mr. Sandipan Ganguly .. Sr. Advocate  
Mr. Upendra Ray  
Mr. Ranjit Ray  
Mr. Randhir Singh  
Mr. Sunny Nandi  
Ms. Manisha Som  
Mr. Kanchan Ray

... .. for the petitioner

Mr. Kusal Kumar Mukherjee  
Ms. Eshita Aich

... .. for the de-facto complainant

Mr. Arijit Ganguly  
Mr. Avik Ghatak

... .. for the State

1. It is submitted on behalf of the petitioner that there was free mixing between himself and the lady for more than a decade. The lady is an adult and married woman. Allegation of transfer of Rs.50 lakhs to the petitioner is not supported by contemporaneous document. Subsequently, the relationship soured and petitioner withdrew from the association. In retaliation, the present case has been registered. Accordingly, he prays for anticipatory bail.
2. Learned Advocate for the State opposes the prayer for anticipatory bail.
3. Learned Advocate for the de-facto complainant also opposes the prayer for anticipatory bail and submits petitioner had taken Rs.50

lakhs from his client. She had also mortgaged her jewellery in connection with petitioner's business.

4. We have considered the materials on record including the statement of the victim lady. Materials on record show there was intimate relationship between the parties for a decade. Both of them are mature and married. Allegation of rape requires to be assessed in the light of the aforesaid circumstances during trial.
5. With regard to allegation of cheating it is contended on behalf of the petitioner there is no contemporaneous document supporting the allegation of money transfer. Be that as it may alleged monetary transfers and/or mortgage of valuables have to be assessed in the light of the close and intimate relationship between the parties. Under such circumstances, we are of the opinion though custodial interrogation of the accused/petitioner may not be necessary in the facts of the present case, he requires to cooperate with the investigation in accordance with law.
6. Accordingly, we direct that in the event of arrest, the accused/petitioner, namely **Rakesh Pirogiwal**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, to the satisfaction of the arresting officer and also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioner shall meet the Officer-in-charge, Bidhannagar North Police Station once in a week until further orders. He shall appear before the court below and pray for regular bail within four weeks from date.
7. The application for anticipatory bail is, thus, disposed of.

(Partha Sarathi Sen, J.)

(Joymalya Bagchi, J.)

