

13.10.2023
D/L 31
Ct. No.25
(Allowed)
(SKB)

CRM (A) 4188 of 2023

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Goalpokhor P. S. Case No.90 of 2023 dated 27.02.2023 under Section 376 of the Indian Penal Code (G.R. No.473 of 2023).

In the matter of : Rahul Kundu

... Petitioner

Mr. Shaharayar Alam

... for the petitioner

Mr. Joydeep Roy
Mr. Amanul Islam

... for the State

1. Heard learned counsel for the parties.
2. The father of the petitioner on 22.02.2023 lodged FIR (annexure P3 to the present petition) against the parents and the family members of the victim to the effect that the accused persons forcibly took away his son (petitioner herein) to give marriage with the daughter (victim). After lodging that FIR, the present FIR was lodged by the victim on 27.02.2023 alleging commission of rape by the petitioner on the victim. Thereafter another case was lodged by the victim under provisions of SC & ST (P.A.) Act against the parents of the present petitioner.
3. In course of hearing of the bail petition in the aforesaid case under provision of SC & ST (P.A.) Act, the victim was noticed and she was present at the time of hearing. The

order in that case is reflective of the following facts as found in the certified copy of the order produce before us and the copy of the order which is annexure P6 in this petition:

“The de facto complainant on dock submits that there was a love affairs between herself and Rahul Kundu but the parents of Rahul Kundu are not willing to accept the relation and the accused Rahul is trying to blackmail her and also abused her and pressuring her for withdrawal the rape case.”

4. From the aforesaid facts it is clear that there are three cases pending against each other by the parties.
5. Learned Counsel for the petitioner shows us some photographs of marriage ceremony between the petitioner and the victim as alleged in annexure P1 in this petition by the father of the present petitioner.
6. The statement of the victim as recorded under Section 161 Cr.P.C. is indicative of allegation of rape by the petitioner. By taking into consideration the course of events and the statement of the victim as recorded (Supra) in the case under SC & ST (P.A.) Act is indicative of some foul play in the run.
7. We feel persuaded to leave the entire matter to be found out by the learned trial court on trial, if any. We do not find any justification of custodial interrogation of the petitioner who is very young and adolescent.
8. Regard being had to such facts and submissions, factum of permanent residence of the petitioner, his tender age

and possibility of reform in him, nature of allegation 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 G.R. No.473 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 petitioner is directed to appear before the I.O. once in a fortnight on the day and time fixed by the I.O. for the purpose of investigation till submission of Final Form.

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

10. 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.

11. The applications being CRM(A) 4188 of 2023 is disposed of.

12. 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.)