

22.11.2023
SL. 54
Court No. 29
Suvayan
(Allowed)

C.R.M. (A) 4476 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Kaliachak** Police Station Case No. **48 of 2023** dated **12.01.2023** under Sections **323/325/341/354/34** and added Section **376** of the IPC corresponding to G.R. Case No. **247 of 2023**.

And

In the matter of: **Nur Kalam**

....petitioner.

Md. Wasim Akram

...for the petitioners.

Mr. Navanil De

...for the State.

1. Heard learned Advocate for both the parties.
2. The petitioner is the stepson of the victim. Admittedly there was dispute between the first wife and the second wife of the father of the present petitioner and the victim being the second wife went to stay in her parental house. On the relevant date of occurrence the victim came to the house of her husband where the petitioner was present alone. There was altercation between them and in course of assault the petitioner is alleged to have tried to disrobe the victim there by outraging her modesty.
3. In the statement of the victim recorded under Section 164 Cr.P.C., however, there is allegation of rape beside the allegation regarding outraging of modesty.
4. The injury report is indicative of scratch mark on the breast of the victim and bite mark on the right hand of the victim acquired from such breaches. All those injuries might have been caused in course of tussle between the two, i.e., the victim and the petitioner.
5. We, however, do not find it prudent at this stage to believe the allegation of rape without a pinch of salt especially when

there is long standing dispute between the mother of the petitioner and the victim on account of second marriage of the father of the present petitioner.

6. Regard being had to such facts and submissions, factum of permanent residence of the petitioner 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 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 petitioner is 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 F.F.

ii) The petitioner shall not leave the jurisdiction of the P.S. without obtaining prior leave from the I.O. during investigation.

7. The concerned Arresting Officer is hereby directed to act upon the server copy of this order.

8. Within 21 days from today the petitioner shall appear before the I.O. alongwith a server copy/certified copy of this order. If server copy is supplied, learned I.O. shall act upon that.

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

10. The application being **CRM (A) 4476 of 2023** is disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

