

14.12.2023
ML. 76
Court No. 29
Suvayan
(Allowed)

C.R.M. (A) 4729 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Kulti** Police Station Case No. **277 of 2023** dated **01.06.2023** under Sections **448/323/325/376D/379/506/34** of the IPC corresponding to G.R. case No. **1492 of 2023**.

And

In the matter of: **Saroj Yadav @ Saroj Kumar Yadav & Ors.**

....petitioners.

Mr. Ayan Bhattacharjee
Mr. Kunal Ganguly
Mr. Tirupati Mukherjee

...for the petitioners.

Mr. Swapan Banerjee
Mr. Suman De

...for the State.

Mr. Avik Ghatak
Mr. Fahad Imam

...for the de facto complainant.

1. Heard learned Counsel for both the parties.
2. The occurrence happened on 02.04.2023. The first FIR was lodged on 30.04.2023 by the victim herself alleging offence under Section 354 IPC. The present petitioners were admitted to anticipatory bail under Section 438 Cr.P.C. on 17.05.2023. Thereafter on reference under Section 156(3) Cr.P.C. by the competent Magistrate, second FIR was lodged on 01.06.2023 alleging offence under Section 376D IPC.
3. From both the FIRs, we find that the date and time of the occurrence is same. It is submitted by learned Counsel for the informant that the first FIR was limited to offence under Section 354 IPC at the behest of the police and the victim was forced to make the FIR on the dictation of the concerned Police Officer. It is further submitted by learned Counsel for the informant that before the petitioner was admitted to anticipatory bail on 17.05.2023 the victim had already filed complain before the competent Magistrate for taking

cognizance so far as offence under Section 376D IPC is concerned. But learned Magistrate opted to refer the matter under Section 156(3) Cr.P.C. and thereafter the second FIR has been lodged. From the statement of the victim recorded on the second occasion under Section 161 Cr.P.C., we find a shift in the entire prosecution story from the first FIR lodged on 30.04.2023. There being two FIRs for the self-same occurrence and there being improvements in the prosecution story, we think it fit just and proper to leave the matter to the Trial Court to decide the issue after recording of evidence.

4. Regard being had to such facts and submissions, 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 by the Arresting Officer in the event of their 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 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 F.F.
 - ii) The petitioners shall not threaten, induce or coerce any witness of this case in any manner whatsoever during the currency of this order.
5. The concerned Arresting Officer is hereby directed to act upon the server copy of this order.
6. Within 21 days from today each of the petitioner shall appear

before the I.O. along with a server copy/certified copy of this order. If server copy is supplied, learned I.O. shall act upon that.

7. Accordingly, the prayer for the anticipatory bail is allowed.
8. The application being **CRM (A) 4729 of 2023** is disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

