

30.11.2023

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Allowed

C.R.M. (A) No. 5017 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Malda Police Station Case No. 615 of 2023 dated 16.10.2023 under Sections 417/376(2)(n)/506/509 of the Indian Penal Code.

And

In Re : Jiten Chowdhury & Ors. .... petitioners

Mr. Arindam Jana

Mr. A. Sengupta

Mr. P. Sinha

.....for the petitioners

Mr. Angshuman Chakraborty

....for the State

1. Heard the learned Counsels for the parties.

2. We have considered the materials on record. Victim lady was major at the time of cohabitation and was aware of the consequences thereof. Allegation of rape requires to be assessed in the light of the aforesaid circumstance during trial. Though custodial interrogation of the petitioners is not required for progress of investigation they require to co-operate with the investigating agency in accordance with law. Under such circumstances, we are of the opinion custodial interrogation of the petitioners for progress of investigation is not necessary and they may be granted anticipatory bail.

3. Accordingly, we direct that in the event of arrest the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- each, with two sureties of like amount each, to the satisfaction of the arresting officer and also be subject to the conditions as laid down under Section 438(2) of the Code of

Criminal Procedure, 1973 and on condition that they shall appear before the court below and pray for regular bail within a period of four weeks from date and on further condition that petitioners shall meet the investigating officer once in a week until further orders.

4. This application for anticipatory bail is, thus, allowed.

**(Gaurang Kanth, J.)**

**(Joymalya Bagchi, J.)**