

22.12.2023

Item No.6

Ct. No. 5

CHC

Allowed

C.R.M.(A) 5363 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Kushmandi** Police Station Case No. **273** of **2023** dated **02.11.2023** under Sections **448/376/506** of the Indian Penal Code, 1860.

And

In the matter of : Matiar Rahaman

..... petitioner

Mr. Mazahar Hossain Chowdhury
....for the petitioner

Mrs. Anasuya Sinha
....for the State

Petitioner prays for anticipatory bail.

Learned advocate appearing for the petitioner submits that, the petitioner was falsely implicated.

Learned advocate appearing for the State draws the attention of the Court to the materials in the Case Diary including the statement of the victim recorded under Section 164 of the Criminal Procedure Code and the statements of neighbours recorded under Section 161 of the Criminal Procedure Code thereof.

The victim apparently was the first wife of the petitioner. They were divorced. Thereafter, the victim married for the second time. Her second husband expired. She was living along with her daughter when the incident took place.

In her statement recorded under Section 164 of the Criminal Procedure Code the victim states that, the petitioner entered her house and attempted to rape her. Her daughter raised hue and cry when the neighbours intervened and assaulted the petitioner.

Statements of the neighbours recorded under Section 161 of the Criminal Procedure Code corroborate the presence of the petitioner at the residence of the victim on the fateful day and the petitioner being assaulted.

There is an aspect of delay in lodgement of the First Information Report. The delay is about 26 days from the date of the incident.

Considering the fact that, the allegation is one of attempt to rape and considering the delay in lodgement of the First Information Report, we grant anticipatory bail to the petitioner.

Accordingly, we direct that in the event of arrest the petitioner shall 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 be 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 Investigating Officer once in a week till the conclusion of investigation and on condition that petitioner will however not enter into the jurisdiction of the police station at which the incident occurred

save and except for the purpose of reporting to the Investigating Officer and for the purpose of attending Court proceedings till the filing of the charge-sheet and on condition that petitioner will inform the jurisdictional Court and the Investigating Officer of his present place of residence and on further condition that petitioner shall appear on every date before the jurisdictional Court on and from the date fixed for appearance of the accused and in default the jurisdictional Court will pass appropriate order to secure the presence of the petitioner in Court including cancelling the anticipatory bail granted without further reference to this Court.

This application for anticipatory bail being **C.R.M.(A) 5363 of 2023** is, thus, allowed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)