

02.01.2023

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Ct. No. 29
KAUSHIK
Partly
Allowed

C.R.M.(A) 6019 of 2022

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Bagdah** Police Station Case No. **941** of **2022** dated **07.12.2022** under Sections 498A/325/313/34 of the Indian Penal Code, 1860.

And

In Re : Abdul Prodhan alias Abdul Rab Prodhan & Ors.
..... petitioners

Mr. Susnigdho Bhattacharya
....for the petitioners

Ms. Kumkum Mitra
....for the State

Petitioners pray for anticipatory bail.

Learned advocate appearing for the petitioners submits that, the husband is in custody. The petitioners were falsely implicated.

Learned advocate appearing for the State draws the attention of the Court to the materials in the case diary including the statements recorded under Section 161 of the Code of Criminal Procedure (Cr.P.C.).

Apparently, the case diary, at this stage, does not contain any statement of any neighbours of the de-facto complainant.

The police complaint of the de-facto complainant relates, inter alia, to an abortion suffered by her. She implicates her

husband as also the first two petitioners before us in assaulting her in a manner such that she suffered an abortion.

The claim for abortion stands corroborated by the medical evidence in the case diary.

In such circumstances, considering the complicity of the first petitioner in the incident along with the husband of the de-facto complainant, we are unable to grant anticipatory bail to the petitioner no. 1 (Abdul Prodhan alias Abdul Rab Prodhan) and petitioner no. 2 (Kulsan Bibi Prodhan alias Kulchan Prodhan).

Accordingly, the application for anticipatory bail is, thus, rejected so far as petitioner nos. 1 and 2 is concerned.

So far as the third petitioner (Moksed Ali Prodhan) is concerned, we grant him anticipatory bail.

Accordingly, we direct that in the event of arrest the petitioner no. 3 shall be released on bail upon furnishing a bond of Rs.10,000/-, 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 no. 3 shall meet the Investigating Officer once a week till the conclusion of the investigation and on condition that the petitioner no. 3 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 no. 3 in Court including cancelling the anticipatory bail granted without further reference to this Court.

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

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)