

28. 04.2023

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Ct. No. 29
CHC
Allowed

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

C.R.M.(A) 277 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 in connection with **Kotwali** Police Station Case No. **242** of **2023** dated **14.03.2023** under Sections **493/376/323/506/109** of the Indian Penal Code.

And

In the matter of : Pabitra Barman

..... petitioner

Mr. Jaydeep Biswas

....for the petitioner

Mr. Kallol Acharjee,

Mr. Kallol Nag

....for the State

Apparently, petitioner entered into a relationship with the de facto complainant.

The de facto complainant recorded her statement under Section 164 of the Criminal Procedure Code where she acknowledges that there was relationship between her and the petitioner. She acknowledges that an application for registration of the marriage was sought to be submitted online. According to her, same was not processed by the petitioner deliberately. She was assaulted. She was driven out of the house. She stayed with the petitioner for about three months.

There are statements recorded by neighbours under Section 161 of the Criminal Procedure Code which acknowledges that there was love relationship between the petitioner and the de facto complainant. Such statements suggest assault on the de facto complainant.

Claim of assault is not corroborated by any medical evidence.

The medical examination report of the de facto complainant suggests that there was no recent sign of forcefully cohabitation. However, sexual assault was not ruled out by the report.

Apparently, the relationship between the petitioner and the de facto complainant was not allowed to be registered despite an application sought to be submitted online due to the prohibited decree of relationship between the petitioner and the de facto complainant.

Petitioner and the de facto complaints are adults. They are supposed to be aware of the consequences of their relationship.

In such circumstances, 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 month till the conclusion of investigation and on condition that the 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 is, thus, allowed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)