

15.12.2023

Sl. No.17

akd
[ALLOWED]

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri

C. R. M. (A) 968 of 2023

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 26.09.2023 in connection with Malbazar Police Station Case No. 559 of 2023 dated 18.07.2023 under Sections 448/376/506 of the Indian Penal Code. (G.R. Case No.3736 of 2023)

And

In Re: ***Mojammel Hossain @ Gopal @ Majamel Husen***
... .. Petitioner

Mr. Arjun Chowdhury
Mrs. Pratusha Dutta Chowdhury
Ms. Riya Agarwal

... .. for the petitioner

Mr. Aniruddha Biswas

... .. for the victim

Mr. Abhijit Sarkar
Mr. Biswarup Roy

... .. for the State

1. It is submitted on behalf of the petitioner that there was prior enmity between the two families. His brother's wife lodged criminal case against the relations of the victim. In retaliation, the present case has been registered. Accordingly, he prays for anticipatory bail.
2. Learned Advocate for the State opposes the prayer for anticipatory bail.
3. Mr. Aniruddha Biswas, learned Advocate empanelled with the High Court Legal Services Committee appears for the victim girl. Secretary, High Court Legal Services Committee is directed to regularize his appointment.

4. Mr. Biswas also opposes the prayer for anticipatory bail and submits the victim is receiving threats from the petitioner and his relations.
5. We have considered the materials on record. A prior criminal case was registered against the relations of the victim. There is delay of about one month in lodging FIR. Allegation of forcible rape requires to be assessed in the light of the aforesaid attending circumstances. Under such circumstances, we are of the opinion custodial interrogation of the accused/petitioner may not be necessary and he may be granted anticipatory bail however, subject to strict conditions.
6. Accordingly, we direct that in the event of arrest, the accused/petitioner, namely ***Mojammel Hossain @ Gopal @ Majamel Husen***, 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 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, while on bail, shall not enter Malbazar Police Station and shall provide the address where he shall presently reside to the Investigating Agency as well as the court below and shall meet the Officer-in-charge of the police station concerned within whose jurisdiction he shall presently reside once in a week until further orders. He shall appear before the court below and pray for regular bail within four weeks from date.
7. The application for anticipatory bail is, thus, disposed of.

(Apurba Sinha Ray, J.)

(Joymalya Bagchi, J.)

