

19.02.2024

Serial no. 17

Anticipatory Bail

[Allowed]

Dd

CRM (A) 523 of 2024

*In re : An Application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure in connection with **Kharagpur Local** Police Station Case No. **850** of **2023** dated **October 31, 2023** under Sections **451/376/511/506/34** of the Indian Penal Code, 1860 read with Section **4** POCSO Act.*

-And-

In the matter of : **Pulin Bihari Dey @ Pulin Chandra Dey & Ors.**

... ... Petitioners

*Mr. Navanil De,
Mr. Rajeshwar Chakraborty, Advocates
... ... For the Petitioners*

*Ms. Rituparna De Ghose, Advocate
... ...For the State*

*Mr. Satadru Lahiri,
Mr. Sourav Paul , Advocate
... ...For the de facto complainant*

Petitioners pray for anticipatory bail.

Learned advocate appearing for the petitioners submits that the petitioners were falsely implicated. He draws the attention of the Court that there is a proceeding, inter alia, under Section 498A as well as three civil suits.

Learned advocate for the State draws the attention of the Court to the statements recorded under Section 164 of the Criminal Procedure Code as well as to the other materials in the case diary.

Learned advocate for the de facto complainant submits that the contents of the petition under Section 156(3) of the Criminal Procedure attracts Sections 376(3) as also Section 376(A)(B) of the Indian Penal Code, 1860.

We perused the materials in the case diary.

Mother of the minor recorded a statement under Section 164 of the Criminal Procedure Code which suggests, there was an incident of assault for the purpose of ensuring that the occupants in a room vacates it.

In an incident of assault, apparently, one person as claimed by the mother of the victim, inserted his finger in the private parts of the victim. The mother of the victim who recorded a statement under Section 164 of the Criminal Procedure Code did not permit the minor victim to be medically examined. Other corroborative materials are not available in the case diary at this stage to corroborate the claim of the mother of the victim of penetrative sexual assault on the minor. A number of persons were involved in the assault.

There is a large issue of false implication given the nature of the proceedings already pending between the private parties.

In such circumstances, we grant anticipatory bail to the petitioners.

Accordingly, we direct that in the event of arrest the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand Only) 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 further condition that the petitioners shall report before the Investigating Officer once in a month till the conclusion of the investigation and on further condition that the petitioners 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 petitioners in Court including cancelling the anticipatory bail granted without further reference to this Court.

Prayer for anticipatory bail of the petitioners is **allowed**.

CRM (A) 523 of 2024 is disposed of.

After the order was dictated, learned advocate for the petitioners submits that condition be imposed upon the petitioners so that they stay outside the jurisdiction of the police station.

Such submission adds to our conviction that the present police case is one of false implication that that, the police complaint revolves around civil disputes between the private parties.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)