

20.02.2024

16

Ct. No. 29

S.D.

Allowed

C.R.M.(A) 563 of 2024

In Re:- In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Mohanpur** Police Station Case No. **09 of 2024** dated **22.01.2024** under Sections **376/448** of the Indian Penal Code.

And

In Re : **Makhan Patra & Anr.**

..... petitioners

Mr. Saswata Gopal Mukherji

Mr. Debashish Kundu

...for the petitioners

Mr. Tanmoy Kumar Ghosh

Ms. Manashi Roy

...for the State

Affidavit of service filed in Court be taken on record.

None appears for the victim.

Learned advocate appearing for the petitioners submits that, there is a previous police complaint with regard to an incident of assault. The present police complaint was instituted to falsely implicate the petitioners. The present police complaint was filed 13 days after the alleged incident.

Learned advocate appearing for the State draws the attention of the Court to the materials in the case diary including the statement recorded under Section 164 of the Cr.P.C. of the victim and the medical examination report.

There is a previous police complaint amongst the private parties.

The statements recorded under Section 164 of the Cr.P.C. remains largely uncorroborated at this stage. Medical

Examination Report does not corroborate the claim of the victim.

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/- 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. The petitioner no. 1 will cooperate with the investigation till the conclusion of the investigation. Petitioner no. 2 will report before the Investigating Officer once a month till the conclusion of the investigation. 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.

This application for anticipatory bail is, thus, allowed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

