

02.04.2024

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S.D./A.D.

Allowed

C.R.M. (A) No. 1020 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Lalgola Police Station Case No. 65 of 2024 dated 02.02.2024 under Sections 498A/307/313/34 of the Indian Penal Code, 1860 and Sections 3 & 4 of the Dowry Prohibition Act, 1961 pending before the learned Chief Judicial Magistrate, Murshidabad.

And

In Re : Ismail Islam & Anr. petitioners

Mr. Soubhik Mitter
Mr. Somopriyo Chowdhury
Mr. Dipayan Dan

.....for the petitioners

Mr. Robiul Islam

..for the defacto complainant

Mr. Pravas Bhattacharya
Mr. Saibal Dasgupta

....for the State

1. Petitioners contend they are the brothers-in-law of the victim lady. Petitioner no. 1 is working as a peon in the court of learned Civil Judge, Junior Division, 2nd Court, Arambagh, Hooghly and petitioner no. 2 is a Group-D staff of this Court. They do not ordinarily reside at their ancestral home, which is the matrimonial home of the victim.
2. Allegation that petitioner no. 1 had poured deleterious substance in the mouth of the victim and had raped her are patently absurd.

3. Learned Lawyer for the State opposes the prayer for anticipatory bail.
4. Learned Lawyer for the defacto-complainant/victim submits she had been subjected to torture by her husband as well as her in-laws including the petitioners. Due to torture, she had miscarried.
5. We have considered the materials on record. We have also examined statement of the victim. She stated her husband had poured deleterious substance in her mouth and petitioner no. 1 had assisted him. As a result, she had miscarried. However, no contemporaneous complaint with regard to such unlawful activity was lodged by her. Subsequently, she alleged petitioner no. 1 raped her. Allegation of rape is bereft of material particulars with regard to date and time. Petitioners do not ordinarily reside at the matrimonial home of the couple.
6. Possibility of their false implication owing to matrimonial discord between the defacto-complainant and her husband cannot be ruled out.
7. Custodial interrogation for progress of investigation is not necessary.
8. Under such circumstances, we are inclined to grant anticipatory bail to the petitioners.
9. 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 and on condition that they shall appear before the Jurisdictional Court and pray for regular bail within a period of four weeks from date.

10. The application for anticipatory bail is, thus, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)