

03.04.2024

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S.D./A.D.

Allowed

C.R.M. (A) No. 1089 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Tehatta Police Station Case No. 122 of 2024 dated 21.02.2024 under Sections 448/376/511/34 of the Indian Penal Code pending before the learned Additional Chief Judicial Magistrate, Tehatta, Nadia.

And

In Re : Sagar Biswas & Anr. petitioners

Md. Golam Nure Imrohi
.....for the petitioners

Mr. Prasun Kumar Dutta
Mr. Karan Bapuli
....for the State

Mr. Asraf Mandal
Mr. Siddartha Sarkar
...for the defacto-complainant

1. Petitioner submits their father-in-law had lodged a criminal case against one of the relations of the victim. In retaliation, the present case has been registered and they have been falsely implicated. Accordingly, they pray for anticipatory bail.
2. Learned Lawyer for the State opposes the prayer for anticipatory bail.
3. Learned Lawyer for the defacto-complainant submits the earlier case has no relation to the present FIR.
4. We have considered the materials on record. An earlier criminal case was lodged by the father-in-law of the petitioners against one of the relations of the victim. This shows prior enmity between the two families. We have examined the statement of the victim bearing in mind such enmity. From her statement, it appears that

petitioners had scuffled with her. Whether the allegation of attempt to rape is an embellishment required to be examined in view of prior enmity at the appropriate stage of the proceeding.

5. In view of the aforesaid, we are of the opinion custodial interrogation of the petitioners for progress of investigation is not necessary, but movement of the petitioners require to be restricted in order to instill confidence in the mind of the victim.
6. 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 further condition that petitioners shall not enter into the jurisdiction of Tehatta Police Station until further orders except for the purpose of investigation or attending the Court proceedings. They shall appear before the jurisdictional Court and pray for regular bail within a period of four weeks from date.
7. The application for anticipatory bail is, thus, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)