

04.04.2024

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S.D./A.D.
Allowed

C.R.M. (A) No. 1101 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Kaliachak Police Station Case No. 152 of 2024 dated 12.02.2024 under Sections 498A/325/376/511/34 of the Indian Penal Code read with Section 3/4 of Dowry Prohibition Act, pending before the learned Chief Judicial Magistrate, Malda.

And

In Re : Momin Khan petitioner

Ms. Sujata Das
.....for the petitioner

Mr. Saryati Datta
Ms. Dikshal Ghosh
....for the State

1. Petitioner submits there is inordinate delay of five months in lodging FIR. Allegation of attempt to rape by the petitioner is concocted. He prays for anticipatory bail.
2. Learned Lawyer for the State opposes the prayer for anticipatory bail.
3. We have considered the materials on record including the statement of the victim before the Magistrate. Victim alleges that petitioner used to send obscene pictures through mobile phone to her. On 5.9.2023, he had attempted to rape her. However, no obscene pictures received by the victim from the petitioner were collected during investigation. There is a delay of five months in lodging the FIR. Possibility of embellishment and false implication owing to matrimonial dispute cannot be ruled out.

4. Under such circumstances, we are of the opinion custodial interrogation for progress of investigation is not necessary, but petitioner is required to cooperate with the investigation in accordance with law.
5. Accordingly, we direct that in the event of arrest the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/-, 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 they shall appear before the jurisdictional Court and pray for regular bail within a period of four weeks from date and on further conditions petitioner shall meet the Investigating Officer once in a week until further orders.
6. The application for anticipatory bail is, thus, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)