

10.04.2024
Item No.52
AD/SD
Court No.28
(Allowed)

C.R.M. (A) No. 1209 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Hariharpara** Police Station Case No. **576 of 2023** dated **26.12.2023** under Sections **417/420/376** of the Indian Penal Code, pending before the Learned Chief Judicial Magistrate, Berhampore, Murshidabad. (G.R. Case No.6156 of 2023)

And

In Re : Sainul Ansari

..... petitioner

Ms. Minoti Gomes

Mr. Jiosan Iqbal Hossain

.....for the petitioner

Md. Anwar Hossain

Mr. Tapas Kumar Saha

....for the State

1. Petitioner submits there was a consensual relationship between him and the victim. Allegation of forcible rape is patently absurd. He prays for anticipatory bail.
2. Learned lawyer for the State opposes the prayer for anticipatory bail.
3. In spite of notice, nobody appears for the de facto complainant.
4. We have considered the materials on record including the statement of the victim. She stated she and her husband had gone to Kerala for work. She became acquainted with the petitioner at her place of work. Her husband had fallen sick and petitioner promised to marry her if her husband did not survive. Thereafter, he forcibly raped her. Petitioner had also taken money from her. After the death of her husband he refused to marry.

5. In light of the aforesaid circumstances, allegation of forcible rape is inherently improbable. Victim was an adult lady married to another person and presumably had consensual cohabitation with the petitioner.
6. Accordingly, we are inclined to grant anticipatory bail to the petitioner.
7. 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 that he shall appear before the jurisdictional Court and pray for regular bail within a period of four weeks from date.
8. The prayer for anticipatory bail of the petitioner is allowed.
9. **C.R.M. (A) No. 1209 of 2024** is disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)