

22.05.2024

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Ct. No. 03

S.D.

Allowed

C.R.M.(A) 1537 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Mothabari** Police Station Case No. **174** of **2024** dated **29.03.2024** under Sections **448/376/506/34** of the Indian Penal Code pending before the learned Chief Judicial Magistrate at Malda.

And

In the matter of: **Asgar Ali**

.....petitioner

Md. Wasim Akram

...for the petitioners

Mr. Rana Mukherjee

Mr. Soumya Basu Roy Chowdhuri

.... For the State

Mr. Arnab Chatterjee

...for the defacto complainant

Petitioner, defacto complainant and the State are represented.

Affidavit of service filed in Court be taken on record.

Learned advocate appearing for the petitioner draws the attention of the Court to a photograph annexed to the petition and submits that the relationship was consensual.

Such photograph was shown to the defacto complainant who is present in Court along with her father. It is submitted on her behalf that she is not the lady in the photograph.

Prima facie, it appears that the photograph was taken while there were consent between the lady in the photograph

and the petitioner. *Prima facie*, it also appears that the lady in the photograph is the defacto complainant.

In any event, the benefits of doubt, the same should be extended to the accused.

Apparently, the relationship between the petitioner and the defacto complainant was consensual. Both are adults.

In such circumstances, we grant anticipatory bail to the petitioner.

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. The petitioner will report before the Investigating Officer once a week till the conclusion of the investigation. The petitioner 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 petitioner 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.)