

01.08.2024
Court No.29
Item No. 9

Allowed

sg

CRM (A) 2412 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure read with Section 482 of the BNSS, in connection with Balurghat Police Station Case No. 518 of 2024 dated 04.07.2024 under Sections 498A/323/307/34 of the Indian Penal Code read with Section 4 & 5 of the D.P. Act, pending before the learned Chief Judicial Magistrate, Balurghat at Dakshin Dinajpur.

And

In Re: **Soumik Chakraborty & Ors.**

Petitioners

Mr. Amitabha Ghosh
Ms. Nabanita Chatterjee
Ms. Aripa Dhar

For the Petitioners

Mr. Md. Adil Badr
Mr. Aslam Parvez

For the State

Mr. M. Sinha

For the victim

1. The Investigating Officer is present with the case diary which includes the statement of the victim recorded under Section 164 of the Code of Criminal Procedure.
2. The learned Counsel for the petitioners submits that as a counterblast to the application filed by the petitioner no.1 for restitution of conjugal life on 15th March, 2024, a false complaint has been made by the wife/defacto complainant on 4th July, 2024. It is submitted that the petitioner no.1 is always willing to leave a happy marital life and with a false allegation, a complaint has been lodged. It is further submitted that no notice has been served upon the petitioners under Section 35 of the BNSS.

3. The learned Counsel for the de-facto complainant has submitted that the de-facto complainant has received mental and physical torture at the matrimonial home for which she left the home and lodged a complaint.
4. The learned Counsel for the State has produced the case diary and opposed the prayer on the basis of the statement of the victim recorded under Section 164 of the Code of Criminal Procedure.
5. Considering the materials available in the case diary and the fact that the application for restitution of conjugal right was filed on 15th March 2024 and this complaint has been lodged on 4th July, 2024 during the pendency of the aforesaid proceeding and prima facie it does not appear that any offence under Section 307 of the Code of Criminal Procedure has been committed, we are of the view that the custodial interrogation of the present petitioners is not necessary.
6. Accordingly, we direct that in the event of arrest the petitioner nos. 1, 2 and 5, namely, **Soumik Chakraborty, Uttam Chakraborty and Subrata Datta**, shall be released on bail upon furnishing a bond of Rs.10,000/- each, with two sureties of like amount each, one of whom must be local, and the petitioner nos. 3 and 4, namely, **Sima Chakraborty and Popi Chakraborty @ Popy Chakraborty** shall be released on bail upon furnishing a bond of Rs.5,000/- each, with two registered sureties of like amount each, to the satisfaction of Arresting Officer, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure corresponding to Section 482(2) of the Bharatiya Nagarik Suraksha Sanhita. The petitioner nos. 1, 2 and 5 shall meet the I.O. once in a week till the submission of the final report and the petitioner nos. 3 and 4 shall cooperate with the investigation. The petitioners

shall appear before the learned Chief Judicial Magistrate, Balurghat at Dakshin Dinajpur within two weeks from date.

7. In the event the petitioner fails to comply with any of the conditions as mentioned above, the trial court shall be at liberty to cancel their bail in accordance with law without any further reference to this Court.
8. Accordingly, the prayer for anticipatory bail of the petitioners is allowed.
9. CRM (A) 2412 of 2024 is, thus, disposed of.
10. All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Soumen Sen, J.)

(Uday Kumar, J.)