

27.08.2024
Court No.29
Item No. 19

Allowed
sg

CRM (A) 2668 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 Behala Police Station Case No. 166 of 2024 dated 24.05.2024 under Sections 498A/406/323/509/34 of the Indian Penal Code (adding section 354 IPC) read with sections 3/4 of D.P. Act, pending before the learned Additional Chief Judicial Magistrate, Alipore, South 24 Parganas.

And

In Re: **Sushil Kumar Patodia**

Petitioner

Mr. Sandipan Ganguly, Sr. Adv.
Mr. Apalak Basu
Ms. Manaswita Mukherjee
Ms. Sanghamitra
Mrs. Smita Mukherjee

For the Petitioner

Mr. Rudradipta Nandy
Ms. Subhasree Patel
Mr. Ayana Dey

For the State

Mr. Sabyasachi Banerjee
Mr. Bikram Mitra

For the de-facto complainant

1. Mr. Sandipan Ganguly, learned Senior Counsel appearing for the petitioner submits that the petitioner has complied with the notice under Section 41A of the Code of Criminal Procedure. It is submitted that in order to malign the petitioner, a false compliant has been lodged almost after one year after she voluntarily left the matrimonial home.
2. The learned Counsel for the State, in opposing the prayer for anticipatory bail, has referred to the case diary and submitted that it is unique that no gold ornament could be found in the household at the time of search and seizure. It

is submitted that the petitioner has complied with the notice under Section 41A of the Code of Criminal Procedure.

3. Mr. Sabyasachi Banerjee, learned Counsel appearing for the de-facto complainant submits that due to unacceptable behaviour of the petitioner and infliction of physical and mental guilt, she had to left the matrimonial home. All her stridhan articles are in the matrimonial home and are being used by the family members of the Patodia family, which would be revealed from the photographs and other evidence which the defacto complainant has shared with the Investigating Officer. It is further submitted that although she had left the matrimonial house one year back but she lodged the complaint on October 2023 alleging physical and mental torture and concealment of stridhan articles. Mr. Banerjee has referred to the incident of 2022 in order to show the complicity of the petitioner.
4. Considering the materials available in the case diary, the fact that the defacto complainant apparently left the matrimonial home on 23rd May, 2023 and lodged a complaint on October 2023 and there are materials showing that the relationship was pleasant in between, the petitioner has complied with the notice under Section 41A of the Code of Criminal Procedure and has so far cooperated with the investigation and having regard to the nature of the dispute between the parties and also having regard to the fact that the in-laws have been granted bail on surrender by the learned Jurisdictional Court, we are of the view that the custodial interrogation of the present petitioner is not necessary.
5. Accordingly, we direct that in the event of arrest the petitioner namely, **Sushil Kumar Patodia**, shall be released on bail upon furnishing a bond of Rs.50,000/-, with two sureties of like amount each, one of whom must be

local, 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 shall meet the I.O. twice in a week till the submission of final report and shall not leave the Municipal Limits of Kolkata without the permission of I.O. till the submission of final report. The petitioner shall appear before the learned Additional Chief Judicial Magistrate, Alipore, South 24 Parganas, within two weeks from date.

6. 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 his bail in accordance with law without any further reference to this Court.
7. Accordingly, the prayer for anticipatory bail of the petitioner is allowed.
8. We direct the I.O. to take appropriate steps for recovery of the stridhan articles in accordance with law.
9. 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.)