

04.09.2024
AD-09
Court No. 29
TN
(Allowed)

CRM (A) 2904 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973, corresponding to Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with Kotshila Police Station Case No.69 of 2024 dated 08.07.2024 under Sections 376/506 of the Indian Penal Code, 1860.

And

In the matter of: **Dilip Kaibartya**

.... Petitioner

Mr. Sourav Chatterjee,
Mr. Sougata Mitra,
Mr. Pawan Gupta,
Ms. Soma Chakraborty,
Ms. Sofia Nesar,
Mr. Palash Mukherjee,
Mr. Subhadeep Maitra

....for the petitioner

Mr. Abhra Mukherjee,
Mr. Sauradeep Dutta,
Mr. A. Mukherjee,
Ms. Reshmi Khatoon,
Mr. S. Kumar Mondal

....for the *de facto* complainant

Mr. Prasun Kumar Dutta,
Ms. Shaila Afrin

....for the State

1. The learned counsel for the petitioner submits that the petitioner is innocent and taking advantage of his relationship with the *de facto* complainant, a false complaint has been lodged.
2. The learned counsel for the State in opposing the prayer has produced the case diary and the statement of the victim recorded under Section 164 of the Code of Criminal

Procedure. It is submitted that the allegations have been made against the petitioner.

3. The learned counsel for the *de facto* complainant in opposing the prayer submits that taking advantage of her economic condition, the petitioner has sexually exploited her and forcibly raped.
4. Considering the materials available in the case diary and having regard to the fact that there appears to be a long standing relationship between the petitioner and the *de facto* complainant for almost eighteen years and having regard to the fact that the *de facto* complainant has acknowledged of receiving money on a regular basis from the petitioner over a long period of time and the case diary does not show any photograph being made viral nor the *de facto* complainant was able to produce any photograph and also having regard to the fact that the medical report does not *prima facie* show any forcible rape of the *de facto* complainant, we are inclined to grant anticipatory bail to the petitioner.
5. Accordingly, we direct that in the event of arrest, the petitioner, namely, **Dilip Kaibartya** shall be released on bail upon furnishing a bond of Rs.20,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer and also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973, corresponding to Section 482(2) of the BNSS, 2023.

6. The petitioner shall not enter the jurisdiction of Police Station-Kotshila where the *de facto* complainant is presently residing, except for the purpose of meeting the Investigating Officer and attending the court and the petitioner shall be shifted to some other police station till submission of the final report.
7. The petitioner shall meet the Investigating Officer once in a week till submission of the final report.
8. It is further directed that the present accused petitioner shall appear before the learned Chief Judicial Magistrate, Purulia within two weeks from date.
9. Accordingly, the application for anticipatory bail is disposed of.
10. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Soumen Sen, J.)

(Shampa Dutt (Paul), J.)