

01.10.2024
AD-07
Court No.29
TN
(Allowed)

CRM (A) 3306 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 Jhargram Women Police Station Case No. 34 of 2024 dated 29.07.2024 under Sections 417/376/313 of the IPC.

And

In the matter of: **Samir Mahata**

.... petitioner

Mr. Soumyajit Das Mahapatra,
Mr. Supriyo Das,
Ms. Madhurai Sinha

....for the petitioner

Mr. Debabrata Chatterjee,
Mr. Dipankar Mahata

....for the State

Mr. Amit Ranjan Pati,
Ms. Swastika Chowdury

....for the *de facto* complainant

Ms. Anasuya Bhattacharya

....for the *de facto* complainant
(appointed by H.C. Legal Aid Services Committee)

1. Liberty is given to redact the name of the petitioner as well as to correct the cause title in course of the day.
2. The name of the petitioner shall be redacted from the court records and from the Sartha portal. After removal of the name, a fresh copy shall be uploaded in the Sartha portal.
3. It is submitted on behalf of the petitioner that the petitioner is an HIV patient as would reveal from the HIV test result of the petitioner. It is submitted that the petitioner was in love relationship with the victim girl. He was willing to marry the

victim girl but after it is revealed that he is an HIV patient, he broke the marriage for the benefit of the victim girl.

4. The learned counsel for the State has produced the case diary, wherefrom it appears that the petitioner was infected with HIV. The State has also referred to the statement of the victim recorded under Section 164 of the Code of Criminal Procedure and submits that she became pregnant during the relationship and he refused to marry the victim after there was a miscarriage.
5. The learned counsel for the victim has opposed the prayer for anticipatory bail.
6. Considering the materials available in the case diary and having regard to the fact that the petitioner and the victim were in love relationship but due to HIV, it appears that the petitioner declined to marry the victim and the report suggests that the petitioner has been diagnosed with HIV, we are of the view that custodial interrogation of the petitioner is not necessary.
7. Accordingly, we direct that in the event of arrest, the petitioner, namely, **Samir Mahata** shall be released on bail upon furnishing a bond of Rs.5,000/-, with two registered sureties of like amount each, 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.

8. The petitioner shall meet the Investigating Officer as and when required.
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.)

(Uday Kumar, J.)