

27.09.2024

Court No.29

Item No.26

ar

CRM (A) 3470 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with English Bazar Police Station Case No. 1269 of 2023 dated 07.08.2023 corresponding to G.R Case No. 5339 of 2023 under Sections 376/417 of the Indian Penal Code.

And

In Re: **Rabiul Sk @ Babu Mandal**

Petitioner

Mr. Amitabha Karmakar

Mr. Arup Kumar Bhowmick For the Petitioner

Ms. Sreyashee Biswas

Mr. Soumyadeep Saha For the State

Md. Wasim Akram For the De-facto Complainant

1. Learned counsel for the petitioner submits that the petitioner is the husband of the de-facto complainant and a false complaint has been lodged against the petitioner.
2. Learned counsel for the de-facto complainant in opposing the prayer for anticipatory bail has submitted that she is married with two children and the present petitioner has violated her on various occasions.
3. Learned counsel for the State has referred to the statement of the victim and she refused to medical examination.
4. Considering the materials available in the case diary, the nature and extent of complicity of the petitioner in the commission of the alleged offence and having regard to the assertion of the petitioner that he is the husband of the de-facto complainant and the de-facto complainant has refused medical examination, which in our view is vital and considering the nature of allegation made by her in the statement recorded under Section

164 Cr.P.C, we are of the view that custodial interrogation of the petitioner is not necessary.

5. Accordingly, we direct that in the event of arrest, the petitioner, namely, **Rabiul Sk @ Babu Mandal** shall be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, subject to the satisfaction of the Arresting Officer and also to comply with the conditions as laid down in Section 438(2) of the Code of Criminal Procedure, 1973 corresponding to Section 482(2) of the BNSS, 2023. The petitioner shall meet with the I.O once in a fortnight till the submission of the final report and on further condition that the petitioner shall appear before the **learned Chief Judicial Magistrate, Malda**, within **Ten days** from date in connection with **G.R Case No. 5339 of 2023**. In the event of non-compliance of any of the conditions, the anticipatory bail shall stand automatically cancelled without any further reference to this Court.
6. Accordingly, the prayer for anticipatory bail of the petitioner is allowed and the same is accordingly disposed of.
7. 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)

