

04.11.2024
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as
[ALLOWED]

C. R. M. (A) 3642 of 2024

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure read with Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Mothabari Police Station Case No. 471 of 2024 dated 11.08.2024 under Sections 498A/323/365/344/506/417/376B/34 of the Indian Penal Code.

In Re: Md. Mursalim Sk.

... .. Petitioner

Mr. Arup Kr. Bhowmick,
Md. Sontu Mia,
Ms. Alisha Parvin.

... .. for the petitioner

Ms. Zareen Nasima Khan,
Mr. Prakash Mishra.

... .. for the State

1. Petitioner claims to be the former husband of the victim. It is contended he divorced his wife under Muslim Law. Subsequently, he has been falsely implicated in the case. Accordingly, he prays for anticipatory bail.
2. Learned Advocate for the State opposes the prayer for anticipatory bail.
3. In spite of notice, nobody appears for the victim.
4. We have considered the materials on record. Petitioner was married to the victim in June, 2022. It is alleged in March, 2023 he pronounced '*Talak*'. Subsequently, victim was detained at the matrimonial home and raped. Statements recorded of neighbours show parties had subsequently started to reside together and victim was tortured. They did not corroborate the

allegation of rape. In this backdrop, whether the allegation of rape is an embellishment or not may be assessed during trial.

5. Keeping the nature of corroborative materials in mind and as there is possibility of false implication due to prior matrimonial discord, we are of the opinion custodial interrogation of the petitioner for progress of investigation is not necessary.

6. Under such circumstances, we are inclined to grant anticipatory bail to petitioner.

7. Accordingly, we direct that in the event of arrest, the petitioner viz., Md. Mursalim Sk be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of like amount each, to the satisfaction of the Arresting Officer and also subject to the conditions as laid down under Section 482(2) of the BNSS and on further condition petitioners while on bail shall meet the Investigating Officer once in a week until further orders. They shall appear before the court below and pray for regular bail within four weeks from date.

8. The application for anticipatory bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)