

14.11.2024
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Allowed

C.R.M. (A) No. 3909 of 2024

In Re:- An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita in connection with Nandigram Police Station Case No. 700 of 2024 dated 16.08.2024 under Sections 498A/406/376E/506/509/34 of the Indian Penal Code read with Section 4 of the Dowry Prohibition Act, Sections 85/86/316(2)/71/351(2)(3)/79/34 of the BNS read with Sections 3/4 of the Dowry Prohibition Act.

And

In Re : Hasibul Islam Khan & Ors. petitioners

Mr. Tapas Kumar Adhikari
Ms. Sami Adhikari
Mr. Abhijit Ghosh

.....for the petitioners

Md. Zubair Alam
Ms. Suveni Banerjee

....for the State

Mr. Madhu Jana

..... for de facto complainant

1. Learned Counsel for the petitioners submits a matrimonial dispute is subsisting for nine years between the victim and co-accused, Abdul Kalam Khan. Petitioners are brothers-in-law of the victim lady. They reside in separate mess. Allegation of gang rape is a figment of imagination. They have been falsely implicated. They pray for anticipatory bail.

2. Learned Counsel for the State opposes the prayer for anticipatory bail.

3. Learned Counsel for the de facto complainant submits prayer for anticipatory bail of the co-accused, Abdul Kalam Khan had been turned down.

4. We have considered the materials on record including the statement of the victim recorded under Section 164 of the Code of Criminal Procedure. Victim stated she had been gang raped in 2016. Thereafter she had been admitted in hospital in 2018 and in 2020 she gave birth of twin babies. Though victim alleged gang rape in 2016 she did not come out with this allegation earlier even when she had been admitted to hospital in 2018 or thereafter in 2020.

5. In this backdrop we may be constrained to observe that the allegation for gang rape against the in-laws is an embellishment to falsely implicate the in-laws in a matrimonial dispute. Allegations against the husband relate to torture and misappropriation of property and on such score his prayer for anticipatory bail was turned down. There is no such allegation against the petitioners. It is contended that the petitioners have threatened the victim in various ways. However, petitioners contend that they are residing in separate mess. Keeping in mind the aforesaid facts, we are of the view though custodial interrogation may not be necessary movement of the petitioners requires to be restricted to instill confidence in the mind of the victim.

6. Accordingly, we direct that in the event of arrest the petitioners shall be released on bail upon furnishing a bond of

Rs.10,000/- each, with two sureties of like amount each, to the satisfaction of the arresting officer and also be subject to the conditions as laid down under Section 482(2) of the Bharatiya Nagarik Suraksha Sanhita and on condition that they shall appear before the jurisdictional court and pray for regular bail within a period of four weeks from date and on further conditions that while on bail petitioners shall not enter the jurisdiction of Barrackpore Police Station until further orders except for the purpose of attending court proceeding and shall provide address where they shall presently reside to the investigating agency and the jurisdictional court and shall report to the Officer-in-Charge of the concerned Police Station within whose jurisdiction they shall presently reside once in a week until further orders.

7. The application for anticipatory bail is, thus, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)