

22.04.2024
Item No.399
Ct. No. 29
CHC
Rejected

C.R.M.(A) 5329 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Kultali** Police Station Case No. **51/2019** dated **21.01.2019** under Sections **376D/306** of the Indian Penal Code and Section **6** of the Protection of Children from Sexual Offences Act, which ended in a charge sheet dated 30.12.2019 under Sections 376D/305 of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act .

And

In the matter of : Sariful Laskar alias Moyna

..... petitioner

Mr. Angshuman Chakraborty
....for the petitioner

Mr. Debasis Roy, Ld. P.P.
Mr. Sandip Chakraborty
....for the State

Petitioner prays for anticipatory bail.

Learned advocate appearing for the petitioner refers to an order dated September 21, 2023 passed in CRM(A) 3391 of 2023 and submits that co-accused was enlarged on anticipatory bail by such order.

Police filed charge-sheet and therefore, custodial interrogation of the petitioner is not required.

Learned Public Prosecutor appearing for the State submits that, a Special Leave Petition was filed directed against the order dated September 21, 2023 passed in CRM(A) 3391 of 2023 and that, such Special Leave Petition is still pending.

The police case is dated January 21, 2019. Police filed charge-sheet dated December 31, 2019 *inter alia* under Section 376DA of the Indian Penal Code, 1860.

In view of the police filing charge-sheet *inter alia* under Section 376DA of the Indian Penal Code, 1860, the present application is not maintainable.

Moreover, there is an issue of long absconsion.

Claim for parity cannot be accepted in view of the fact that, the coordinate Bench proceeded on the basis of Section 376D and not Section 376DA of the Indian Penal Code, 1860. Moreover, a Special Leave Petition is pending directed against such order of coordinate Bench.

In such circumstances, we are unable to grant anticipatory bail to the petitioner.

This application for anticipatory bail is, thus, rejected.

CRM(A) 5329 of 2023 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)