

01.02.2024

Serial no. ML 626

Anticipatory bail

[Allowed]

Dd

CRM (A) 5348 of 2023

*In re : An Application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure in connection with **Tamluk** Police Station Case No. **555** of **2023** dated **24.05.2023** under Section **376** of the Indian Penal Code, 1860.
(G.R. Case No. 1617/2023)*

-And-

*In the matter of : **Swapan Mahar***

*... .. **Petitioner***

Mr. Amal Krishna Samanta, Advocate

... .. For the Petitioner

Mr. Saryati Datta, Advocate

... ..For the State

Mr. Soumya Nag, Advocate

... ..For the de facto complainant

Petitioner prays for anticipatory bail.

Learned advocate appearing for the petitioner submits that the petitioner was falsely implicated. There is a proceeding under Section 144 pending.

State and the de facto complainant are represented.

Learned advocate appearing for the de facto complainant submits that the Section 144 proceeding is not connected with the present matter.

We have perused the materials in the case diary.

Victim recorded a statement under Section 164 of the Criminal Procedure Code where, she stated that, the petitioner entered her room and sexually assaulted her. She also screamed.

She was medically examined where, bruises on her body were found.

On a query from Court from the learned advocate for the de facto complainant as to the time of occurrence, he submits, on instructions, that it was about 3:30 PM.

The place of occurrence is in a locality. Statements recorded under Section 161 of the Criminal Procedure Code of the neighbours do not corroborate the version given out by the de facto complainant as they appear to be of hearsay nature. Possibility of false implication remains.

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

Accordingly, we direct that in the event of arrest the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand Only), 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 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioner shall report before the Investigating Officer once in a week till the conclusion of the investigation and on further condition that the petitioner shall appear on every date before the jurisdictional Court on and from the date fixed for appearance of the accused and in default the jurisdictional Court will pass appropriate order to secure the presence of the petitioner in Court including cancelling the anticipatory bail granted without further reference to this Court.

Prayer for anticipatory bail of the petitioner is **allowed**.

CRM (A) 5348 of 2023 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

