

12.12.2024

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Allowed

C.R.M. (A) No. 4333 of 2024

In Re:- An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita in connection with Palashipara Police Station Case No. 457 of 2024 dated 13.09.2024 under Sections 498A/376/323/506/34 of the Indian Penal Code and Section 6 of the POCSO Act and Section 9 of the Prohibition of Child Marriage Act.

And

In Re : XXXXX petitioner

Mr. Amanul Islam
Mr. Sourav Mukherjee

.....for the petitioner

Mr. Ashok Das

....for the State

1. Learned Counsel for the petitioner submits he is brother-in-law of the victim girl. It is also submitted he has been falsely implicated owing to matrimonial dispute. He prays for anticipatory bail.

2. Learned Counsel 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 including statement of the victim before Magistrate. In her statement she alleges petitioner had forcibly raped her. However, allegation against the petitioner is bereft of material particulars with regard to date and circumstances in which the incident occurred. No contemporaneous complaint was filed. On the other hand, victim continued to reside at her matrimonial home and had become pregnant. Only when in-laws pressed for divorce she lodged the present criminal case.

Credibility of the allegation of forcible rape has to be assessed in light of the aforesaid circumstances at the appropriate stage of the proceeding. Investigation is complete and there is no chance of abscondence. Accordingly we are inclined to grant anticipatory bail to the petitioner.

5. Accordingly, we direct that in the event of arrest the petitioner shall 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 be subject to the conditions as laid down under Section 482(2) of the Bharatiya Nagarik Suraksha Sanhita and on condition that he shall appear before the jurisdictional court and pray for regular bail within a period of four weeks from date.

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

(Apurba Sinha Ray, J.)

(Joymalya Bagchi, J.)