

13.12.2024

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Allowed

C.R.M. (A) No. 4368 of 2024

In Re:- An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita in connection with Basirhat Police Station Case No. 859 of 2024 dated 24.11.2024 under Sections 126(2)/118(1)/117(2)/3(5) of the BNS.

And
In Re : Priyanka Mistry petitioner

Mr. Pradip Majumder
Ms. Piyali Mukherjee
Mr. Mrityunjoy Chatterjee
.....for the petitioner

Mr. Rudradipta Nandy, learned APP
Ms. Sukanya Bhattacharya
Mr. Shashanka Sekhar Saha
.....for the State

Mr. Jaydeep Biswas
Mr. Akash Siddhartha
Mr. Kaushik Ghosh
..... for de facto complainant

1. Liberty is granted to correct the cause title.
2. Learned Counsel for the petitioner submits she did not play any role in obstructing administration of justice or assaulting any individual in court premises. There was social disapproval in the community in respect of abduction of a girl belonging to a different religion. She has been falsely implicated due to political rivalry. She prays for anticipatory bail.
3. Learned Counsel for the State opposes the prayer for anticipatory bail and submits petitioner gave leadership to an unruly mob who came to court premises, assaulted lawyers and interfered with judicial proceeding since the victim who had

eloped with a man of different religion, had been released on personal bond. Attempt was also made to snatch away the victim.

4. Learned Counsel for the *de facto* complainant submits petitioner assaulted lawyers and interfered with judicial proceeding. She created a reign of terror inside the court premises.

5. We have considered the materials on record. Petitioner is a member of a political party. A criminal case being Hasnabad Police Station Case No. 567 of 2024 dated 23.11.2024 was registered alleging that a girl had been kidnapped by a person belonging to a different religion. When the girl was produced in court she made statement before Magistrate that she had voluntarily left with the accused out of love and affection. On such premises the Magistrate released the major girl on personal bond. At this stage it is alleged petitioner and others obstructed the judicial proceeding and assaulted lawyers. They also tried to snatch away the victim girl. However, FIR has not been registered alleging obstruction to public servant or administration of justice. Offences in the FIR primarily relate to assault. There cannot be any cavil that every individual has a fundamental right to choose his/her life partner irrespective of religion, race, caste or ethnicity. In a constitutional democracy wherein freedom of choice is cherished and preserved as enforceable fundamental rights no one is entitled to act as a moral guardian and interdict an inter

faith marriage between two willing adults.¹ However, offences for which petitioner has been charged involve assault and attempt to murder only.

6. We have also examined the statements of witnesses including medical records. Witnesses allege petitioner was present at the spot. But no specific overt act is attributed to her. Allegations against her are general and omnibus. It is also relevant to note injury reports do not disclose injuries which may endanger life.

7. Under such circumstances, a balance between liberty and requirement of custodial interrogation for progress of investigation clearly veers in favour of the petitioner entitling her to anticipatory bail, however, subject to strict conditions so that there is no interference in the peaceful life of the inter faith couple in any manner whatsoever.

8. 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 she shall appear before the court of the learned Chief Judicial Magistrate, Basirhat, North-24 Parganas and pray for regular bail within a period of four weeks from date and on further conditions that while on bail petitioner shall not enter the jurisdiction of North-24 Parganas until further orders and shall provide address

¹ Shafin Jahan vs. Ashokan KM., (2018) 16 SCC 368

where she shall presently reside to the investigating officer and the jurisdictional court.

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

(Apurba Sinha Ray, J.)

(Joymalya Bagchi, J.)