

01.03.2024

21
Ct. No. 29
S.D.
Allowed

C.R.M.(A) 5640 of 2023

In Re:- In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Arsha** Police Station Case No. **44 of 2023** dated **08.04.2023** under Sections **447/325/354** of the Indian Penal Code and under Section **8** of the POCSO Act.

And

In Re : **Radhu Gope @ Radhanath Gope & Anr.**

..... petitioners

Mr. Pawan Kumar Gupta

Mr. Saugata Mitra

Mr. Rameshwar Sinha

Ms. Sofia Nesar

Mr. Santanu Sett

Mr. Nikhil Kumar Gupta

...for the petitioners

Ms. Subhasree Patel

...for the State

Affidavit of service filed in Court be taken on record.

None appears for the defacto-complainant.

Apparently, police filed a charge sheet.

Apparently, an incident of assault took place. The grand father of the victim was injured in the incident of assault. The injury report of the grand father of the victim does not show that the injury was of grievous hurt. He did not make a complain under the POCSO Act before the doctor treating him. Statement of the victim recorded under Section 164 of the Cr.P.C. apparently implicates the petitioner before us in an offence of bad touch.

There are other materials in the case diary suggesting that the petitioners were not present at the time and place of occurrence.

In such circumstances, the involvement of the petitioners in the incident with regard to the allegations of POCSO Act, 2012, may be decided at the trial if raised. That apart, the injuries suffered are simple in nature.

Consequently, we grant anticipatory bail to the petitioners.

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 438(2) of the Code of Criminal Procedure, 1973. The petitioners 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 petitioners in Court including cancelling the anticipatory bail granted without further reference to this Court.

This application for anticipatory bail is, thus, allowed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

