

13.05.2024

Sl. No.96

akd

[ALLOWED]

IN THE HIGH COURT AT CALCUTTA

Circuit Bench at Jalpaiguri

C. R. M. (A) 393 of 2024

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 26.04.2024 in connection with Kotwali Police Station Case No. 630 of 2022 dated 18.09.2022 under Sections 498A/304B/34 of the Indian Penal Code read with Sections 3/4 of the Dowry Prohibition Act. (G.R. Case No.630 of 2022)

And

In Re: ***Rabin Dey Sarkar***

... .. Petitioner

Mr. Anirban Banerjee
Mr. Tapabrata Ghosh

... .. for the petitioner

Mr. Ujjwal Luksom
Ms. Namrata Das

... .. for the State

1. It is submitted on behalf of the petitioner that allegation of demand of dowry is patently absurd. Victim lady had a prior marriage. During subsistence of the marriage, she started living with the petitioner as husband and wife. One day after the prior marriage was dissolved by a decree of divorce on mutual consent, she committed suicide. Accordingly, he prays for anticipatory bail.
2. Learned Advocate for the State opposes the prayer for anticipatory bail and submits petitioner and others had subjected the victim to torture over demand of dowry. As a result, she committed suicide.
3. We have considered the materials on record. In the FIR it is alleged victim had married the petitioner on 10.03.2022. It

appears from the annexure to the application that the victim had obtained a decree of divorce on mutual consent from her previous husband on 16.09.2022. On the very next day she committed suicide. The aforesaid facts show the victim had a prior marriage when they were living together as husband and wife. Allegation of torture over demand of dowry has to be assessed in the backdrop of the aforesaid facts during trial. Under such circumstances, we are of the opinion petitioner has made out a probable case for commission of suicide owing to reasons other than dowry. Accordingly, we are inclined to grant anticipatory bail to him.

4. Accordingly, we direct that in the event of arrest, the accused/petitioner, namely ***Rabin Dey Sarkar***, 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 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 appear before the court below and pray for regular bail within four weeks from date.
5. The application for anticipatory bail is, thus, disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

