

JPD-202
Ct No.01
29.07.2024
AK

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction

CRM (A) 457 of 2024

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Rajganj Police Station Case No. 542 of 2021 dated 09.12.2021 under Sections 363/365 IPC, 1860.

And

In the matter of: **Max yadav @ Sovit Kumar**

.... petitioner

Mr. Jaydeep Kanta Bhowmik
Mr. Sayantan Bhowmik
Mr. Shubham Kumar
Ms. Sayantani Das
Ms. Moumita Shone

... for the petitioner

Mr. Aditi Shankar Chakraborty
Mr. Sagnik Sankar Sikdar

... for the State

Mr. Arijit Ghosh

... for the *de facto* complainant

1. Learned counsel for the petitioner argues that after the petitioner having an affair with the victim girl for three years, which is an admitted position, the victim girl lodged the present complaints.
2. It is submitted that the complaints, as find place in the statement of the victim girl under Section 164 of the Criminal Procedure Code, are not credible.
3. As per the allegations, the petitioner and his father ravished the victim girl before their family members. It is absurd, it is argued, that the said family members remain silent.
4. Thus, the petitioner seeks anticipatory bail.

5. However, we find from the statement of the victim girl that although a prior three year relationship was admitted, the gravity of the allegations are serious inasmuch as, as per the said statement, both the petitioner and his father, in presence of their family members, forced themselves upon the victim girl and ravished her.
6. The petitioner contends that the medical report does not corroborate the allegations, since although it is found therefrom that the hymen was ruptured, the same might very well have been the result of the prior relationship between the petitioner and the victim girl.
7. Learned counsel for the prosecution as well as the *de facto* complainant seriously oppose the prayer for anticipatory bail.
8. Learned counsel for the *de facto* complainant submits that there are further documents to indicate that the victim and her family are being threatened regularly by the family members of the petitioner and the victim girl and her family would be in grave danger in the event the petitioner is granted anticipatory bail.
9. Upon going through the nature of the allegations made, we find it premature at this juncture to enter into the evidentiary value of the medical report or the purport thereof in trial.
10. The mere gravity of the allegations and the threat perception of the victim and her family do not justify grant of anticipatory bail at this stage.
11. Hence, in the light of the above observations, we are not inclined to grant anticipatory bail.

- 12.** Accordingly, CRM (A) 457 of 2024 is dismissed with liberty to the petitioner to surrender before the jurisdictional court and pray for regular bail.

(Sabyasachi Bhattacharyya, J.)

(Prasenjit Biswas, J.)