

JPD-218
Ct No.01
02.08.2024
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction

CRM (A) 502 of 2024

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 in connection with **Sahebganj** Police Station Case No. **313** of **2024** dated **24.05.2024** under Sections **376D/506** of the **Indian Penal Code, 1860**.

And

In the matter of: **Nitish Roy and another**

.... petitioners

Mr. Arnab Saha

... for the petitioners

Ms. Sumon Sehanabis (Mondal)

....for the *de facto* complainant

Mr. Aditi Shankar Chakraborty, Ld. APP,
Mr. Sagnik Sankar Sikdar

... for the State

1. Learned counsel for the petitioners contends that as per the admission of the *de facto* complainant/victim she had an amorous relationship with both the petitioners. Subsequently, it was alleged that the victim was taken by the petitioner no.1 to the house of the petitioner no.2, where she was ravished. It is argued that in view of the circumstances of the victim being a married lady and her husband staying elsewhere, it cannot be ruled out

that the allegation was made in order to cover up the relationship of the victim with the petitioners.

2. Learned counsel for the State opposes the prayer for anticipatory bail and hands over a copy of the statement of the victim lady under Section 164 of the Code of Criminal Procedure. It is argued that from the said statement, it is clear that the offence took place when the petitioner no.1 took the victim to the house of the petitioner no.2 and taking advantage of her loneliness in view of the absence of her husband, the crime was committed on the threat that if she did not comply, the education of her child would be stopped.
3. Heard learned counsel for the *de facto* complainant.
4. There is no opposition from the end of the *de facto* complainant to the present prayer. Keeping in view such lack of clear opposition by the *de facto* complainant and the fact that there is justification in the contention of the petitioners that the complaint might have been lodged to cover up the prior relationship between the victim and the two petitioners, we are inclined to grant anticipatory bail to the petitioners.
5. Accordingly, CRM (A) 502 of 2024 is allowed, thereby granting anticipatory bail to the petitioners on condition that the petitioners shall comply with the stipulations in Section 438(2) of the Code of Criminal Procedure.
6. In the event of arrest, the petitioners shall be released on bail upon furnishing bond of Rs.1,000/- each, with two sureties of like

amount each, one of whom must be local, to the satisfaction of the Arresting Officer. The sureties may be common in respect of both the petitioners.

- 7.** Furthermore, the petitioners shall not leave the territorial jurisdiction of the trial court during the period of trial and shall make themselves available as and when required during trial.

(Sabyasachi Bhattacharyya, J.)

(Prasenjit Biswas, J.)