

29.11.2024
Item No.40
Court No.1
(GB)
(Allowed)

**Calcutta High Court
In the Circuit Bench at Jalpaiguri**

CRM (A) 812 of 2024

In Re: - An application for anticipatory bail under section 438 of the Code of Criminal Procedure, 1973/Section 482 of the B.N.S.S. 2023, in connection with **Sitalkuchi** Police Station Case No.**379 of 2024** dated **13.08.2024** under Sections 137(2)/140(3)/64/3(5) of the B.N.S.,2023.

And

In the matter of: **Mosaraf Hossain @Mosharaf Mia**

....Petitioner.

Mr. Hillol Saha Podder,
Ms. Mousumi Das

...for the Petitioners.

Mr. Sourav Ganguly,
Mr. Kallol Nag,
Mr. Dhiman Sil

... for the State.

Mr. Arijit Ghosh

... for the de facto complaint.

1. Affidavit of service filed in Court today, is taken on record. The de facto complainant has been served and is present through the learned advocate.
2. The petitioner is the brother of the principal accused. The petitioner prays for anticipatory bail on the ground of false implication. The petitioner submits that the de facto complainant had an affair with the principal accused (his brother). Thereafter, on refusal to marry, the complaint was filed to wreak vengeance. The de facto complainant was a married woman.
3. Learned advocate for the de facto complainant submits that the de facto complainant went missing and her husband had also filed missing diary. The petitioner was involved in the commission of the alleged offence.

4. The learned advocate for the State opposes the prayer for anticipatory bail and hands over the case diary. Reliance has been placed on the statement of the victim recorded under Section 164 of the Code of Criminal Procedure corresponding to Section 183 of the B.N.S.S. and also on the statements of other witnesses recorded under Section 161 of the Cr.P.C. corresponding to Section 180 of the B.N.S.S. Medical examination was denied by the de facto complainant.
5. Considering the role allegedly played by the petitioner which transpires from the records, we are inclined to extend the benefit of Section 438 of the Code of Criminal Procedure corresponding to Section 482 of the B.N.S.S., 2023, to the petitioner.
6. Accordingly, we direct that in the event of arrest the petitioner shall be released on bail upon furnishing a bond of Rs.20,000/- with two sureties of equal amount each, to the satisfaction of the arresting officer and subject to the conditions as laid down under Section 482(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023. The further condition is that the petitioner shall meet the Investigating Officer once a week until further orders. The petitioner shall not enter the jurisdiction of Sitalkuchi police station, except for the purpose of meeting the investigating officer. He will provide the address of the residence where he now resides to the local police station.
7. The application for anticipatory bail, being CRM (A) 812 of 2024 is, thus, disposed of.
8. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Shampa Sarkar, J.)

(Partha Sarathi Chatterjee, J.)