

13.02.2025

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Allowed

C.R.M. (A) No. 349 of 2025

In Re:- An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita in connection with Malda Police Station Case No. 795 of 2024 dated 13.11.2024 under Section 351(2) of the BNS read with Section 6 of the POCSO Act adding Section 9 of the Prevention of Child Marriage Act.

And

In Re : Rupchand Saha @ Joychand Saha petitioner

Mr. Amit Ranjan Pati

Mr. Fahad Imam

Ms. Swastika Chowdhury

.....for the petitioner

Md. Anwar Hossain

Mr. B. Chatterjee

....for the State

1. Learned Counsel for the petitioner submits he had been given marriage to the minor without disclosing her age. They cohabited together as husband and wife. Subsequently he has been falsely implicated in the case.

2. Learned Counsel for the State opposes the prayer for anticipatory bail.

3. We have gone through the case diary. In the FIR as well as statement of the victim it is alleged she was invited to one Sachin Saha's house for lunch on 11.11.2024 where she was forcibly raped. Neither in FIR nor in her statement the victim admits marriage. But photographs have been enclosed at page nos. 53 to 55 of case diary showing marriage.

Statements of witnesses show minor had been married to the petitioner on 06/07.11.2024. The aforesaid materials improbabilise an act of forcible rape on 11.11.2024 in the house of Sachin Saha. On the other hand, charge-sheet has been filed *inter alia*, against the parents of the victim girl under Section 9 of the Prevention of Child Marriage Act, 2006. Petitioner has also been charged of the said offence but he claims the victim's age had been suppressed. In this backdrop we are of the opinion custodial interrogation of the petitioner is not necessary and he may be granted anticipatory bail.

4. Accordingly, we direct that in the event of arrest the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/-, 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 482(2) of the Bharatiya Nagarik Suraksha Sanhita and on condition that he shall appear before the jurisdictional court and pray for regular bail within a period of four weeks from date.

5. The application for anticipatory bail is, thus, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)