

20.02.2025

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Allowed

C.R.M. (A) No. 591 of 2025

In Re:- An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita in connection with Banshihari Police Station Case No. 508 of 2024 dated 28.12.2024 under Sections 329(4)/64(1)/351(3) of the BNS.

And

In Re : Asutosh Mondal @ Ashutosh Mondal petitioner

Mr. Sandipan Ganguly, Sr. Adv.

Mr. Satadru Lahiri

Syed Wasim Faruque

.....for the petitioner

Mr. Binoy Kumar Panda

Mr. Atanu Ghosh

.....for the State

Mr. Niladri Shekhar Ghosh

Mr. Sakhawat Khandakar

Ms. Labani Sikder

Mr. Souvik Dey

.... for the de facto complainant

1. Learned Counsel for the petitioner submits he is a sixty year old man. He had been inducted as a tenant by the *de facto* complainant's husband. After the husband's death tenancy continued under the *de facto* complainant. It is alleged *de facto* complainant had illegally trespassed into the tenancy and a criminal case was registered against her. Civil suit has also been filed against her seeking injunction from dispossession. Proceedings are pending. Out of grudge petitioner has been falsely implicated in an offence of rape. He prays for anticipatory bail.

2. Learned Counsel for the State and *de facto* complainant oppose the prayer for anticipatory bail. They contend *de facto* complainant is an elderly lady and was staying alone in the house. Taking advantage of the situation in the early hours of 28.12.2024 petitioner trespassed into the room and raped her.

3. We have considered the materials on record. Petitioner is a tenant under the *de facto* complainant. A number of civil and criminal cases are pending between the parties. Before the Magistrate victim alleged on the fateful night she was alone in the house. In the early hours she heard the bell ring. She thought her son and daughter-in-law (who were away) had returned. She opened the door. Petitioner came into the room and forcibly raped her. She raised hue and cry. Thereafter she informed her son and daughter-in-law and FIR came to be lodged.

4. Aforesaid statement discloses a number of imponderables. Though it is alleged *de facto* complainant was alone and after the incident had informed her son and daughter-in-law no statement of her son/daughter-in-law corroborating the fact is placed on record. CDRs have also not been collected to show that she had contacted them immediately after the incident. It is also important to note near relations of the victim are occupants of adjacent house. In her statement she does not state she had sought their help. Intrinsic truth of her statement requires to be assessed in light

of the aforesaid circumstances during trial. Possibility of false implication due to prior enmity cannot be ruled out. Accordingly, we are inclined to grant anticipatory bail to the petitioner.

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 further condition that he shall meet the investigating officer once in a week until further orders. 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.)