

11.03.2025
Item No.41
Ct. No. 26
CHC
Allowed

C.R.M.(A) 758 of 2025

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 corresponding to Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **Gurap** Police Station Case No. **27/2023** dated **08.02.2023** under Sections **363/365/34** of the Indian Penal Code, 1860 corresponding to Sections 137(2)/140(3)/3(5) of the Bharatiya Naya Sanhita, 2023 and charge sheet submitted therein under Sections 364A/376(2)(n)/120B of the Indian Penal Code, 1860 corresponding to Sections 140(2)/64(2)(m)/61(2) of the Bharatiya Naya Sanhita, 2023 and Section 6(1) of the POCSO Act, 2012, pending before the Learned Judge, Exclusive POCSO Court, Chinsurah, Hooghly.

And

In the matter of: XXXXX

..... petitioner

Mr. Prasenjit Debnath, Advocate

Ms. Punam Basu, Advocate

....for the petitioner

Mrs. Shaila Afreen, Advocate

Mr. Sandip Kundu, Advocate

....for the State

1. Affidavit-of-service filed in Court be taken on record.
2. None appears for the de facto complainant despite service.
3. Petitioner prays for anticipatory bail.
4. Learned advocate appearing for the petitioner submits that, there was a relationship between the petitioner and the victim. Police filed charge-sheet and therefore, detention of the petitioner is not required.
5. Learned advocate appearing for the State draws the attention of the Court to the materials in the Case Diary including the statement of the victim recorded under

Section 164 of the Criminal Procedure Code and the medical examination report of the victim.

6. Victim recorded her statement under Section 164 of the Criminal Procedure Code where, she said that, she was going to school when she was kidnapped by the petitioner. She stated that, she was taken to Surat where there was physical relationship between her and the petitioner.
7. Medical examination report of the victim states that, there was no visible sign of injury on the victim. Medical opinion is that, the victim is habituated with sexual intercourse.
8. Victim was about 16 years of age when the incident is alleged to take place.
9. Materials in the Case Diary discloses that, the victim ran away on three previous occasions and that, one police case namely, Gurap Police Station Case No.144/22 dated August 5, 2022 under Sections 363/365 of the Indian Penal Code, 1860 was instituted.
10. Given such materials in the Case Diary including the conduct of the victim as noted above, and given the facts that, police filed charge sheet, we do not find any need for placing the petitioner in custody.
11. In such circumstances, we grant anticipatory bail to the petitioner.

12. Accordingly, we direct that in the event of arrest the petitioner will 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 438(2) of the Code of Criminal Procedure, 1973 corresponding to Section 482(2) of the BNSS, and on further condition that the petitioner shall appear on every date before the jurisdictional court on and from the date fixed for appearance of the accused and in default the jurisdictional court will pass appropriate order to secure the presence of the petitioner in court including cancelling the anticipatory bail granted without further reference to this Court.

13. This application for anticipatory bail is, thus, allowed.

(Debangsu Basak, J.)

(Smita Das De, J.)