

08.08.2025
Sl. no. 17
Ct. No. 25
P.M.
(Allowed)

C.R.M. (A) 2072 OF 2025

In re : An application for anticipatory bail under Section 482 of the of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Harishchandrapur Police Station Case No. 551 of 2024 dated 29.06.2024 (Special Case No. 48 of 2024) under Section 4 of the Protection of Children from the sexual Offences Act..

In the matter of : XXXX.

... petitioner

Mr. Angshuman Chakraborty,
Mr. Arup Sarkar,
Mr. Shashanka Sekhar Saha.

.....for the Petitioner.

Mr. Siladitya Banerjee,
Ms. Poulami Bose.

.....for the State.

The facts of this case are peculiar in nature. Initially the P.S. Case No. 309 of 2024 dated 15.04.2024 was registered on the statement of mother of the victim under Section 363/365/34 of Indian Penal Code. It was alleged that the victim girl was missing from her house from 10th April, 2024. The complainant stated that the petitioner along with one another person had kidnapped his daughter and kept her at unknown destination.

During investigation the statement of the complainant and victim were recorded.

It was alleged that on 10th April, 2024 that after the accused person came to know about the case that

they left the victim and after investigation charge sheet was filed on 30th May, 2024 under Section 363/365/34 of IPC. Subsequently the instant case of P.S. case No. 551 of 2024 dated 29th June, 2024 under section 4 of the POCSO Act was registered on the statement of aunt of the victim girl wherein she alleged that parents of the victim went to Mumbai and left victim and her elder daughter with her. It was alleged that 20th February, 2024 at around 11'o clock petitioner entered the minor niece house and forcibly raped her. The statement of the victim was recorded under Section 164 Cr.P.C. on 18th July, 2024 wherein she alleged that two months ago while she was sleeping alone in her home she was forcibly raped by the petitioner. During investigation the victim refused for medical examination.

Learned counsel for the State has filed the detailed report of SI Tanbir Habib Azad, let it be taken on record.

The perusal of the report indicates that there are material contradictions and inconsistencies in the statement of witnesses and the victim. In the first case P.S. 309 of 2024 which was registered on 15th April, 2024 there was no allegation of rape.

It is pertinent to mention that charge sheet was filed on 30th May, 2024 in P.S. Case No. 309 of 2024. However subsequently the instant case was registered on 29th June, 2024 wherein it was alleged that victim was raped on 20th February, 2024 by the petitioner.

Though the court cannot meticulously examine the evidence at this stage, however, prima facie case has been seen. Any further discussion on the quality of witnesses testimony may prejudice either of the parties.

In the facts and circumstances of this case the petitioner shall join the investigation as and when directed by the I.O.

In the event, if Investigating Officer feels necessary of effecting the arrest of the petitioner he be admitted to anticipatory bail by furnishing personal bond of Rs. 10,000/- (Rupees ten thousand only) with two sureties of like amount each, one of whom shall be local, to the satisfaction of the Investigating Officer, subject to the conditions that the petitioner shall not enter the jurisdiction of P.S. Harishchandrapur till the investigation is going on except for the meeting of the Investigating officer or attending trial, nor shall he contact the prosecutrix/ victim or member of the family in any manner. The

petitioner shall also mark his presence before the investigation every week every Friday till the trial is concluded or until further orders.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Dinesh Kumar Sharma, J.)