

01.09.2025
Court No.28
Item No.26
tbsr
Allowed

CRM (A) 2552 of 2025

In Re: - An application for anticipatory bail under Section 438 of the Criminal Procedure Code, 1973 corresponding to Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with **Lake** P.S. Case No.**317 of 2023** dated **03.12.2023** under Sections **363/365/376** of the Indian Penal Code, 1860 and Section 6 of the Protection of Child From Sexual Offences Act, 2012.

And

In the matter of: Emdadul Haque Sardar @ Imdadul Haque Sardar

....Petitioner.

Mr. Arnab Chatterjee

Mr. Anisur Rahman

...for the petitioner.

Mr. Abhisekh Sinha

Ms. Trisha Rakshit

.....for the State.

Learned counsel appearing on behalf of the petitioner submits as follows. The victim allegedly went missing on 02.12.2023. The FIR was lodged on the next date. The victim was recovered and she gave first Section 164 statement before a learned Magistrate on 15.01.2024 where she exonerated the present petitioner. Much later in August, 2024, the victim was made to give another statement before the learned Magistrate where he made several allegations against the present petitioner. Such subsequent change of stand cannot lead to rejection of anticipatory bail of the present petitioner.

Learned counsel appearing on behalf of the State opposes the prayer for anticipatory bail and submits that in the instant case the twenty five years old petitioner did have a physical relation with an underage girl. He had also misrepresented his marital status and that he belonged to a different faith. At the time of incident, the victim was aged about 16 years and 10 months.

It appears that the alleged victim had given the first statement before a learned Magistrate where she gave the real name of the present petitioner that indicated his faith and stated that she had gone away with him and had stayed with him for some time. The subsequent statement made by the victim came after a lapse of about 7 months.

Considering the above including the exonerative statement made by the alleged victim at the first instance and the other materials available in the case diary, I do not think that custodial interrogation of the petitioner is required in this case and I am inclined to grant the application for anticipatory bail to the petitioner.

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, one of whom must be local, 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, 2023 and on further condition that the petitioner shall cooperate with investigation, shall meet the I.O. once a fortnight till submission of report in final form and shall not threaten or intimidate witnesses.

The application for anticipatory bail is, thus, allowed.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)