

21.08.2025
Item No.09
Ct. No. 446
RP
Allowed

C.R.M.(A) 2726 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 **Haridevpur** Police Station Case No. **541** of **2023** dated **13.11.2023** under Section **6** of the POCSO Act, 2012 read with Section 9/11 of Prohibition of Child Marriage Act, 2006 read with Section 64 of BNS pending before the Learned POCSO Court (Special Judge) at Alipore, South 24 Parganas.

And

In the matter of : Snehasish Dhar

..... petitioner

Mr. Debapriya Samanta
Mr. S. Palit
Mr. Akash Kumar Chakraborty
Ms. Riya Saha
Mr. Rajdeep Sarkar
....for the petitioner
Mr. Ramasish Mukherjee
Ms. Debanjana Sen
....For De facto complainant
Ms. Shreyosee Biswas
Ms. Madhumita Basak
....for the State

1. The submission advanced on behalf of the petitioner that he got acquainted with the victim girl from social media handle of the victim girl where she has portrayed herself as major and later developed relationship which culminated into marriage without any objection from the mother and they were leading conjugal life and later on the petitioner was informed that the victim is an adopted

child .On enquiry the petitioner found the adoption agency has stopped functioning on account of the malpractice .Furthermore the victim girl had the social media handle where she herself uploaded her own video and photographs but suddenly the sister of the victim girl lodged the complaint depicting her as minor .He is innocent and falsely implicated with an ulterior motive

2. The prosecution on the other hand raises objection and relied upon the statement given by the victim girl which supports the case of prosecution .
3. The victim girl is represented by the learned advocate appointed by the Calcutta High Court legal aid services committee .
4. Perused the materials available in the case diary. On careful consideration of the entire facts and circumstances of the case, materials found from the case diary, statement made by the victim girl under Section 183 of BNSS the admitted fact appears that the parties got married in the month of February 2023 and since then till the complaint lodged in the month of September 2023 no other complaint was lodged against the petitioner regarding the marriage .
5. The age of the victim is disputed since the social media handle of the victim shown her as major .

6. The statement made before the Learned Magistrate under section 183 BNSS discloses different version than that of the complaint .
7. No criminal antecedent is found against the petitioner. The investigation has come to an end upon filing of chargesheet .
8. It is undisputed that if the victim is considered as minor being aged about 17 years her consent is no consent in the eye of law and further leading a married life will attract the rigor of POCSO and the Prohibition of child marriage Act .. Time and again Supreme court held in several decisions that promise to marry followed by physical relationship between two with consent would not amount to Rape and in this case they got married and lead a conjugal life .
9. Therefore this Court is of the view that though the allegation is primarily serious in nature but in view of the above discussion this Court is inclined to grant anticipatory bail subject to fulfillment of certain conditions other than compliance of the conditions laid down in Section 482(2) BNSS.
10. In the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs.20,000/- (Rupees Twenty Thousand only), 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 482 (2) of the BNSS and on further condition that he shall not leave the jurisdiction of the Court without the permission of the Court, will not tamper the evidence and make an attempt to create any instances amounting to threatening the witnesses and/or the victim girl and shall appear before the Court on each and every day the date is fixed by the learned Court and in case of violation of any of such condition prosecution will be at liberty to pray for cancellation of anticipatory bail granted without further reference to this Court.

11. This application for anticipatory bail is, thus, disposed of as allowed.

(Chaitali Chatterjee (Das), J.)