

14.01.2025
06.
SG
[REJECTED]

C. R. M. (A) 4478 of 2024

In Re: An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Katwa Police Station Case No. 25 of 2024 dated 09.01.2024 under Sections 420/406/323/376/313 of IPC (G.R. Case No. 50 of 2024).

And

In Re: **Md Noor Kalam Sekh @ Mohammad Nur Kalam Sk.**

..... Petitioner

Mr. Sourav Chatterjee, Sr. Adv.
Mr. Atanu Basu,
Mr. Indranuj Dutta.

.....for the petitioner

Ms. Subhasree Patel,
Ms. Dona Sanyal.

.....for the State

Ms. Sreyashee Biswas.

..... for de facto complainant.

1. Petitioner is a sergeant attached to Kolkata Police. He is a married man. He contends victim was known to her. She was aware of his marital status. He had assisted the victim financially on a number of occasions. When the victim demanded further money to open a beauty parlour, he declined. Out of vengeance criminal case was registered alleging extortion, rape and miscarriage. There is no evidence that petitioner was responsible for miscarriage. Accordingly, he prays for anticipatory bail.

2. Learned Advocate for the State and *de facto* complainant opposes the prayer for anticipatory bail. They contend the victim was acquainted with the petitioner through relations. Petitioner used his position as a police officer to induce the victim that he

would arrange for her employment. On such ground she was brought to Kolkata and he raped her. Then, he assured her he would marry her. When she became pregnant the petitioner refused to marry her. On the other hand, petitioner kicked her in the abdomen resulting in miscarriage. Medical documents corroborate this fact.

3. We have considered the materials on record. Petitioner is a member of a police force. It is expected he would conduct himself in a manner becoming of his status. Unfortunately, he misused this status to induce the unfortunate victim that he would arrange for her employment. Thereby he sexually exploited her and she became pregnant. Then he dissuaded her by assuring marriage. It is argued victim knew petitioner is a married man. This argument is fallacious as the religion of the parties do not prohibit a second marriage. Due to cohabitation the victim became pregnant. Not only did the petitioner rebuff the victim's offer of marriage but he physically assaulted her resulting in evacuation of the fetus. Medical reports produced before us endorse the victim's version. In order to save herself from harassment the victim described the petitioner as her husband in the medical document.

4. In light of the aforesaid incriminating materials as well as the gravity of offence where a police officer has misused his position to sexually exploit a hapless victim and thereafter physically assaulted her causing miscarriage, we are of the opinion this is not a fit case to grant anticipatory bail.

5. Application for anticipatory bail is, thus, rejected.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)