

06.01.2025
20.
Ct. No. 28
SG
[ALLOWED]

C. R. M. (A) 4666 of 2024

In Re: An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Bidhannagar North Police Station Case No. 150 of 2024 dated 03.08.2024 under Section 69 of BNS.

And

In Re: **Gopi Krishan Dixitt.**

... ... Petitioner

Mr. Souvik Mitter,
Mr. Arnab Chatterjee,
Mr. Sourav Mukherjee,
Ms. Poulami Bose.

... ... for the petitioner

Mr. Anand Keshri,
Ms. Nahid Ahmed.

... ... for the State

Mr. Somopriyo Chowdhury,
Mr. Dipayan Dan.

... for the de facto complainant

1. Petitioner is a priest attached to a temple in Vrindavan. He contends he met the *de facto* complainant-victim while she had gone for pilgrimage to Vrindavan. They developed a deep relationship and victim was fully aware of his marital status. Subsequently, she started pressing that he should marry her and falsely implicated him in the present case. Accordingly, he prays for anticipatory bail.

2. Learned Advocate for the State opposes the prayer for anticipatory bail. He contends petitioner had utilized his position as a priest of the temple and emotionally deceived the victim to cohabit with him on the false promise of marriage. Subsequently, it came to light he was a married man with two children.

3. Learned Advocate for the *de facto* complainant submits petitioner had given an impression that he was unmarried. He falsely portrayed to be in love with the victim. On 5th July, 2024 he forcibly made her perform a sexual act in a hotel in Kolkata. Thereafter, he avoided her. Subsequently, she came to know he was a married man.

4. We have considered the rival submissions at the Bar in light of the materials on record. We have gone through the FIR as well as the victim's statement before Magistrate. Victim stated she had gone with her mother for pilgrimage to Vrindavan. Petitioner is a priest attached to a temple at Vrindavan. He volunteered to help the victim and her mother in various ways. In this manner he gained her confidence. He also informed her that they had a relationship in previous birth and that they ought to get married. Victim believed him. He also told her that he was suffering from terminal illness. On 5th July, 2024 petitioner came to Kolkata. In the hotel room he forced the victim to perform a sexual act. Thereafter, he did not maintain relation. Someone telephoned the victim and told her that petitioner is a married man. Then she lodged FIR.

5. We have analysed the victim's version on the anvil of normal human conduct. The sole sexual act narrated by her statement is on 5th July, 2024 in a hotel room in Kolkata. She alleges she was forced to perform the act. If that was so, the victim would not have waited for the petitioner's subsequent response but promptly reported the matter to police and other authorities. Moreover, FIR has not been registered under Section

64 of BNS i.e. forcible rape but under Section 69 of BNS i.e. sexual intercourse through deception. Primary plank on which the victim seeks to make out a case of deception is that the petitioner concealed his marital status. But in the FIR itself the victim stated petitioner told her he had undergone a child marriage with one Ritu.

6. Learned Counsel strenuously argues petitioner had also stated after attaining maturity the couple had parted ways and Ritu got remarried. However, nothing is placed on record to show the earlier marriage between petitioner and Ritu had been validly dissolved.

7. It is true half truths are misleading but it cannot be said that the victim was unaware of a prior marriage between the petitioner and another lady. In this backdrop, it is a matter of deeper scrutiny during trial whether conduct of the petitioner would amount to deception or not. Moreover, the nature of allegation would not require custodial interrogation for progress of investigation.

8. Under such circumstances, we are inclined to grant anticipatory bail to the petitioner subject to conditions.

9. Accordingly, we direct that in the event of arrest, the petitioner viz., **Gopi Krishan Dixit** 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 subject to the conditions as laid down under Section 482(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 and on further condition petitioner while on bail shall meet the investigating

officer once in a week until further orders. He shall appear before the jurisdictional court and pray for regular bail within four weeks from date.

10. We make it clear that the observations made by us are tentative and for the purposes of the present application and would not have any bearing in the subsequent stages of the proceeding which shall be dealt with independently and in accordance with law.

11. The application for anticipatory bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)