

In the Court of Sessions Judge, Murshidabad

Present : **Sri Bhaskar Bhattacharjee,**
Sessions Judge, Murshidabad
(WB00640)

Crl. Misc. Case No. 5044/2023

Re: Application for bail under Section **438** of the Code of Criminal Procedure in connection with **Berhampore PS Case No. 1268/2023, dated 03.09.2023** under sections 498A/325/34 of the Indian Penal Code

Accused/petitioner(s)

Akshay Das

Versus

Opposite Party

State of West Bengal

Order no. 3, dated 27.09.2023

This day is fixed for hearing the application for anticipatory bail under section 438 Cr.P.C in respect of petitioner named above in connection with the above noted case.

Learned Advocate appearing for the petitioner named above is present and submits that no application for bail under Section 438 Cr.P.C has been preferred, rejected or pending before any higher forum in respect of the present petitioner and to that effect an affidavit has been filed.

Learned Public Prosecutor also conceded to the submission as advanced by the Learned Advocate appearing for the petitioner regarding the pendency or earlier rejection of the identical applications concerning the present petitioner in any higher forum.

Learned Advocate appearing for the petitioner submits that the petitioner has been falsely implicated in this case due to trivial matrimonial discord between the husband and wife. It is his further submission that notice u/s 41A Cr.P.C was issued upon the present petitioner. He further submits that other co-accused persons are enjoying the privilege of bail. Hence, he prays for anticipatory bail of this petitioner.

Learned Public Prosecutor leaves the matter to the discretion of this Court.

Heard learned Advocate for the petitioner as well as learned Public Prosecutor.

Perused the case record and the case diary.

Having regard to the entire facts and circumstances of this case, nature of allegation made and on perusal of the case record and materials in the case diary including the statements of the witnesses recorded u/s 161 Cr.P.C, it appears that there exists nothing to show that there was a continuous act of torture upon the defacto complainant by the accused person. It further appears that other co-accused persons are enjoying the privilege of bail. Considering the above and considering the fact that notice u/s 41A Cr.P.C has been served upon the accused person and in absence of any injury report, it appears to this Court that custodial interrogation of the petitioner is not necessary and hence, this is a fit case where benefit of anticipatory bail under section 438 of the Code of Criminal Procedure should be extended to the petitioner.

Hence, in the event of arrest the petitioner named above shall be released on bail on furnishing bail bond of **Rs. 5000/-** with two sureties of **Rs. 2500/-** each, to the satisfaction of the arresting officer and also subject to the conditions as laid down under Section 438 (2) of the Code of Criminal Procedure, 1973.

The Criminal Misc. Case is thus disposed of.

Return the LCR and the CD.

Dictated and Corrected by me

Sessions Judge, Msd.

Sessions Judge, Murshidabad