

**CRM 6384 of 2020  
(Via Video Conference)**

In re : An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Mathabhanga P.S. Case No. 130 of 2020 dated 04.04.2020 under Section 4 of Protection of Children from Sexual Offences Act, 2012.

In the matter of : **Eslam Miya**

**..... petitioner**

**Mr. Suman Sehanabis Mondal**

**....For the petitioner**

**Mr. Ujjal Luksom**

**Mr. Biswarup Roy**

**.....For the State**

The petitioner undertakes to affirm and stamp the petition as per the Rules within 48 hours of resumption of normal functioning of the court. The petition is taken up through video conference on the basis of such undertaking.

The petitioner claims that a completely false charge has been levelled against him by the daughter of a neighbour with whom the petitioner has a long-standing dispute.

The petitioner says that the medical report does not reveal any injury and, as such, the statement of the victim is not corroborated.

The State maintains that the petitioner is guilty, particularly as the medical report reveals that the hymen of the minor girl was ruptured. However, the medical report does not indicate any injury on the person of the survivor.

In the statement of the survivor recorded under Section 164 of the Code, she has referred to the victim scratching her. But

the injury report does not refer to any scratch mark nor does the injury report refer to any other injury suffered by the survivor.

In the absence of any indication of any injury suffered by the survivor, the charge brought by the survivor appears to be somewhat suspicious. As has been rightly pointed out on behalf of the petitioner, the hymen could have been ruptured for a number of reasons and the mere rupture of hymen does not prove sexual intercourse, particularly when the resistance that the girl says she put up is not reflected from the injury report.

Considering the material, the petitioner is entitled to obtain anticipatory bail.

In the event of arrest, the petitioner will be enlarged on bail upon furnishing a bond of Rs.20,000/- (Rupees twenty thousand) with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer. The petitioner will also comply with the conditions laid down in Section 438(2) of the Code and not attempt to make any contact with the victim till after conclusion of the trial.

CRM 6384 of 2020 is disposed of.

(Arijit Banerjee, J.)

(Sanjib Banerjee, J.)