

22.09.2021
Court No.01
Item No. 12
Allowed
Krishnendu

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

**CRM 339 of 2021
(Via Video Conference)**

In Re:- An application for anticipatory bail under section 438 of the
Code of Criminal Procedure ;

And

In Re : **Bibhash Sarkar**

Petitioner

Mr. Debajit Kundu

For the Petitioner

Mr. Nilay Chakraborty

Mr. Biswarup Roy

For the State

Apprehending arrest in connection with Bhaktinagar Police
Station Case No. 1045 of 2020 dated 03.12.2020 under sections
448/354D/376/511 of the Indian Penal Code, the petitioner has filed
the present application.

Mr. Kundu, learned advocate appearing for the petitioner at the
inception submits that as the present application could not be heard
due to the prevailing pandemic situation, the petitioner filed a similar
application, being C.R.M. 612 of 2021. He undertakes not to proceed
with the said application, being C.R.M. 612 of 2021, any further.

He further submits that there had been a long standing dispute between the petitioner and the *de facto* complainant and the petitioner has been falsely implicated in the present case. The petitioner happens to be the relative of the victim girl, the *de facto* complainant herein, and they are residing in the same premises. The allegations levelled are absolutely unfounded . Upon completion of investigation, charge sheet has also been submitted and, as such, custodial interrogation of the petitioner is not necessary in the facts and circumstances of the case.

Mr. Chakraborty, learned advocate appearing for the State, answering to a query of this Court, submits that the victim girl had refused medical test and she also did not record her statement under section 164 of the Code of Criminal Procedure though a notice was served upon her.

Having heard the learned advocates appearing for the respective parties and considering the materials in the case diary, the nature of accusations, conduct of the *de facto* complainant and the extent of complicity of the petitioner in the alleged offence, we are of the

opinion that custodial interrogation of the petitioner is not warranted in the facts and circumstances of the case.

Accordingly, we allow this application and direct that in the event of arrest, the petitioner, namely, **Bibhash Sarkar** , shall 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 438(2) of the Code of Criminal Procedure, 1973.

The application for anticipatory bail, being C.R.M. No. 339 of 2021 is, thus, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Abhijit Gangopadhyay, J)

(Tapabrata Chakraborty, J)