

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

23.09.2021
Court No.01
Item No.18
Avijit Mitra

CRM 553 of 2021

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

And

In Re: Ersad Ali @ Ershad Ali

...Petitioner

Mr. Sudip Guha

...For the Petitioner

Mr. Aditi Shankar Chakraborty, Ld. A.P.P.,

Mr. Sagnik Sankar Sikdar

...For the State

Apprehending arrest in connection with Sahebganj Police Station Case No.458 of 2020 dated 19.10.2020 under sections 341/376(2)(n)/315/325/307/109 of the Indian Penal Code, the present application has been preferred.

Mr. Guha, learned advocate appearing for the petitioner submits that the petitioner had a love relationship with the victim lady. Such relationship was not accepted by the family members of the victim lady and they insisted her to lodge the complaint. The *defacto complainant* is an adult woman and she had willingly entered into such relationship with the petitioner and for that the petitioner individually cannot be hauled up. In view thereof, custodial interrogation is not warranted in the facts and circumstances of the present case. He further submits that co-accused persons have already been granted bail by the learned Court below.

The learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to the statement of the victim lady as recorded under Section 164 of the Code. He further submits that there are incriminating materials on record which clearly indicate direct involvement of the petitioner in the offence.

Having heard the learned advocates appearing for the respective parties and considering the materials in the case diary, including the statement of the victim lady as recorded under Section 164 of the Code, the gravity of the offence and the extent of the complicity of the petitioner in the alleged offence, we are not inclined to exercise any discretion in his favour and as such, his prayer is refused.

Accordingly, the application being C.R.M. No.553 of 2021 is dismissed.

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.)